ALIGARH HISTORIANS SOCIETY

HISTORY AND THE JUDGEMENT OF THE ALLAHABAD HIGH COURT, LUCKNOW BENCH, IN THE RAMJANMABHUMI–BABRI MASJID CASE

Preface

The Allahabad High Court, Bench on Ayodhya Matters, Lucknow, finally gave its judgement on the Ramjanmabhumi – Babri Masjid dispute on 30 September 2010. The three judges, Justices S.U. Khan, Sudhir Agarwal and H.P. Sharma, gave separate judgements. The first two judges did not agree on the historical issues involved, but concurred over the operational part, which meant allotting two-thirds of the land in well-defined portions to the VHP-sponsored body and the Nirmohi Akhara, and the residual one-third to the Sunni Waqf Board. Justice Sharma delivered the minority judgement, holding that the Muslims needed to be excluded altogether from the disputed land.

The operational part of the majority judgement derived not from Justice S.U. Khan's, but from Justice Sudhir Agarwal's reading of the historical background. Moreover, Justice Agarwal, by setting forth a very extensive reproduction of the Court's orders and applications before the Court during the case, and extracts from the statements of witnesses and the arguments of advocates, has laid out massive material of the case in over

5,000 pages. This constitutes a large part of the basic material brought before the High Court, although one may legitimately differ from Justice Agarwal's mode of selection and attribution of importance to certain statements or books.

In this volume we hope to deal with all the major points at issue relating to history and archaeology that have been raised in the judgement of Justice Sudhir Agarwal. It consists of four papers. Paper I deals with the date of the construction of Babri Masjid and the historicity of its inscriptions. Paper II shows that the evolution of the belief in the site Ramajanmabhumi is a recent one, not earlier than the 18th century, and brings out the misuse of the so-called Vishnu-Hari temple inscription. Paper III is the longest: it refutes the conclusions of the Final Report of the Archaeological Survey (ASI) and takes issue with the Justice's own findings about "the structure(s) beneath the mosque" and the demolition thereof. Finally, Paper IV traces the course of the ASI's biased and partisan conduct of the excavations at Ayodhya.

While we have had to disagree with Justice Agarwal's reasoning and conclusions on various occasions, no personal aspersions are at all intended.

The judgement of Justice Agarwal has serially numbered paragraphs and these are cited in all our references to it. All para nos. put in bold figures in our text refer to paragraph nos. of the judgement.

For easy reference to our own text, we have numbered our paragraphs in separate series under each paper: thus the third paragraph in Paper II is numbered 2.3. The paragraph numbers in Notes annexed to Papers I and II are prefaced with nos. of the respective Papers and Notes. Thus the second paragraph of Note 3 annexed to Paper I is numbered 1.3.2.

For convenience of use by those who might be wishing to find where a particular point raised in Justice Agarwal's judgement is referred to by us, an Index is provided of the paragraphs of the Judgement cited by us, giving against each the paragraph no. of our own text, where the reference to it would be found.

The Papers in the volume have been compiled on the basis of information from various sources, with the advice of many friends and colleagues. But the ultimate responsibility is that of the undersigned.

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2 December 2010

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PUBLICATIONS CITED IN THIS VOLUME WHICH MAY NOT HAVE BEEN SUBMITTED TO THE HIGH COURT

Note: Numbers on the right-hand column against each volume listed are those of paragraphs in this volume where the work has been referred to.

Corpus Inscriptionum Indicarum, Vol.III, new edition by D.R. Bhandarkar, et al., ASI, pp.228-31, 361-63	2.4
Epigraphia Indica, Vol.XX, pp.54-58.	2.3
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Proceedings of the Indian History Congress (64th Mysore) session 2003, pub. Patna, 2004, pp.348 to 359	2.6, 2.1.2 and 2.1.5.
Samuel Beal, *Buddhist Records of the Western World*, London, 1884, Vol.I, pp.224-29	2.8
T. Watters, *On Yuan Chwang*, London, 1905, I, pp.354-59	2.8
E.C. Sachau (tr.), *Alberuni's India*, 2 vols., London, 1988	2.9
D.C. Sircar, *Problems of the Ramayana*, Hyderabad, 1979	2.12
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Proceedings of the Indian History Congress, 67th session (2006-07), pp.358-82	2.1.7 and 3.41
Peter L. Drewett, *Field Archaeology: an Introduction*, Routledge, London, 1999, pp.107-08	3.2
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Ancient India (No.3), ASI, 1947 Vol, Pl.VIII	3.27
A. Ghosh (ed.), *The Encyclopaedia of Indian Archaeology*, Vol.I, New Delhi, 1989, pp.260, 295	3.43, 3.50, 3.52
A. Cunningham, *Archaeological Survey Reports*, Vol.III, p.120	3.51
Henry Yule and A.C. Burnell, *Hobson-Jobson*, ed. William Crooke, London, 1902, p.854	3.52
M.S. Mate, *Review in Man and Environment*, XXXIV(1)-2009, pp.117-119	3.58
Sheo Bahadur Singh, *Brahmanical Icons in Northern India*, New Delhi, 1977	3.62

Further, there are in Paper I two photographs (Plates 1 and 2) of the Babri Masjid Gateway inscription, which may or may not have been submitted to the High Court.

PAPER I

THE BABRI MASJID: ITS INSCRIPTIONS AND DATE OF CONSTRUCTION

1.1. Mr Justice Sudhir Agarwal aims in his judgement to prove that the Babri Masjid was built not during the reign of Babur, in 1528, but only under Aurangzeb (died, 1707), at any rate not very much before Fr. Joseph Tieffenthaler visited Ayodhya between 1740 and 1765 (**Paras 1645 and 1682)**. So the memory of the mosque being built over the "demolished" fortress "called Ramcot" [Tieffenthaler's words] was yet fresh in the Hindu mind (**cf. Para 1658**), and that should be taken as evidence for its being built after demolishing a temple marking Lord Rama's birth-place. Furthermore, Tieffenthaler, a little known traveller, but called by the learned judge "an intellectual giant and linguistic wizard" **(Para 1591)**, did not refer to any inscriptions on the mosque; and this means, in the eyes of Justice Agarwal, that these inscriptions were not then in existence, this being the reason, in his opinion, that Tieffenthaler could not decide between the two traditions as to whether Babur or Aurangzeb had built the mosque **(Paras 1591 and 4388)**. This means, according to the judge,

that the so-called inscriptions were put up only after Tieffenthaler's visit, though before Francis Buchanan's visit of Ayodhya in 1810-11, since he obtained the copy of an "inscription on its walls" that declared it to have been built by Babur. Thus, in Justice Agarwal's view, all the inscriptions so far presented to the public are later forgeries, made between, say, 1760 and 1810, despite their texts having been accepted as genuine by Fuhrer, A.S. Beveridge, the *Epigraphia Indica, Arabic and Persian Supplement*, 1965, and practically every historian and epigraphist dealing with them till now. The contents themselves cannot be confirmed, the judge goes on to hold, because Mir Baqi, the commandant, presented as the actual builder, cannot be identified with any one mentioned in the *Baburnama* (see below under Section C: Mir Baqi). In reaching the conclusion over the late construction of Babri Masjid, Justice Sudhir Agarwal does not appear to address other matters relating to the date of the building such as its architectural design and technique of construction. But let us first take up his own arguments one by one.

(A) Tieffenthaler and the Mosque Inscriptions

1.2. As to the significance of Tieffenthaler's not mentioning the inscriptions, it needs stressing that in history negative inferences of

this kind are hardly ever given credence. One famous example is of that other famous "intellectual giant and linguistic wizard", Marco Polo's failure to mention the hugely ancient Great Wall of China. If Justice Sudhir Agarwal is ever asked to decide when the Great Wall was built, he should immediately say, after Marco Polo's travels, i.e. after 1300 AD! This shows the risks involved in Justice Agarwal's approach to History. Tieffenthaler merely recorded the tradition that either Aurangzeb or Babur built the mosque; why should he have gone and tested it by trying to decipher the mosque inscriptions? Moreover the Persian inscriptions were written in ornate *tughra*–influenced *nasta'liq*, and so are hard to read for any non-epigraphist, however conversant with Persian. Tieffenthaler's account of Allahabad *suba* has been published in translation by S.N. Sinha, *The Mid-Gangetic Region in the Eighteenth Century*, Allahabad/ Delhi, 1976, and we can see there that he gives scant notices, if any, of inscriptions found on buildings. Does it mean that the Mughal period inscriptions at Allahabad and other cities not mentioned by him did not exist before his time? The kind of inference Justice Agarwal draws from just stressing one passage of a work shows how risky it is not to look at the nature of the work one is examining. Unlike Tieffenthaler, it was a part

of requirements of Buchanan's survey that he should record antiquarian remains. This he has done in respect of all the districts of Bihar and Bengal, as well as Gorakhpur, that he surveyed, as one may see if one examines not only Montgomery Martin's abridgement of Buchanan's district-wise reports but also the reports themselves, those relating to Bihar districts having been published practically in full by the Government of Bihar and Orissa in British times.

(B) The Texts of the Masjid Inscriptions

1.3. Having disposed off the Tieffenthaler red-herring, let us now look at Justice Agarwal's objections to the genuineness of the mosque inscriptions **(cf. Para 1484 et seq.)**. He uses harsh words to dismiss the evidence brought out in the official publication of the Archaeological Survey of India, the *Epigraphia Indica: Arabic and Persian Supplement, 1965*, where the Babri Masjid inscriptions are given in text and translation on pages 58-62, with a plate facing page 59. This was part of an article (posthumous) by Maulvi M. Ashraf Husain, entitled 'Inscriptions by Emperor Babur', the volume being edited by Dr Z.A. Desai, then Superintendent, Persian and Arabic Inscriptions, ASI, and a great authority among India's Arabic and Persian epigraphists. Let us see how Justice Agarwal castigates them:-

> "We are extremely perturbed by the manner in which Ashraf Husain/ Desai have tried to give an impeccable authority to the texts of the alleged inscriptions which they claim to have existed on the disputed building though [they] repeatedly said that the original text has disappeared. The fallacy and complete misrepresentation on the part of author is writ large from a bare reading of the write-up. We are really at pains(!) to find that such blatant fallacious kind of material has been allowed to be published in a book under the authority of ASI, Government of India, without caring about its accuracy, correctness and genuineness of the subject." **(Para 1463)**

One must respectfully state that this is not a fair view of Ashraf Husain's article, nor a justifiable criticism of the Government of India, for the reasons that we shall give below.

1.4. Ashraf Husain says clearly that the main 4-line inscription (the top containing the invocation and the remaining three containing eight Persian couplets), placed on the central entrance of the mosque, had not disappeared, but was seen by him, and in Plate VII (c), opposite page 59, he has reproduced a photograph of the inscription from which one can check his decipherment (and, of course, translation). This inscription remained in position on the entrance until 6 December 1992, when the karsevaks carried out their act of

demolition. If this does not exist now, it is only owing to that "abominable" act (Justice Agarwal's own characterization of it, para **4527,** which Justice Agarwal seems most of the time to ignore entirely). Two photographs are annexed(Plates 1 and 2) showing the inscription above the entrance before the demolition, so that Justice Agarwal's assertion stands easily disproved.

1.5. Justice Agarwal also here overlooks the fact that about ninety years before the *Epigraphia Indica – A. & P. Supplement, 1965*, both the gate and the pulpit inscriptions of the Babri Masjid had been mentioned in *The Gazetteer of the Province of Oudh*, edited by W.C. Benett, issued as an official publication in 1877-78, Vol.I, pp.6-7. "In two places in the Babri Mosque", it says, "the year in which it was built, 935 H., corresponding with 1528 AD, is carved in stone along with inscriptions dedicated to the glory of the Emperor." It will be noticed that this is much older than Fuhrer's reading of the inscriptions, but is quietly ignored in Justice Agarwal's summary of the reports on the inscriptions (**Para 1650**). Benett's statement is confirmed in H.R. Nevill's *Fyzabad District Gazetteer*, with Preface dated 1905 (volume reprinted, 1920). On page 179 we are told: "The Mosque has two inscriptions, one on the outside and the other on the

pulpit and bear the date 935 Hijri. Of the authenticity of the inscriptions there can be no doubt."

1.6. Thus two official reports clearly say that the inscriptions on the entrance and the pulpit gave the date 935 Hijri (=1528 AD) and that they belonged to the reign of Babur. One of them goes on to attest their undoubted authenticity.

1.7. The only disappearance that is mentioned in Ashraf Husain's article is with regard to the inscription(s) on the pulpit. The supposition that there were *two* pulpit inscriptions came about because of the confusion created by Fuhrer's misreading of the single pulpit inscription and his extracting out of it the impossible date 930 H. (=1523 AD), a year when Babur was not in possession of his Indian dominions (the Battle of Panipat took place in 1526). On Fuhrer's mistranscription and so mistranslation of the pulpit inscription, which led Ashraf Husain to suppose that those were two pulpit inscriptions, not one, see our Note 1.1, annexed herewith. Ashraf Husain naturally thought that the pulpit inscription seen by Fuhrer was different from the one *everyone else* had read on the pulpit. (We have just seen that Bennett and Nevill *both* note that the pulpit inscription too gave the date of the Mosque's construction as A.H. 935 = AD 1528). Moreover,

when Mrs A.S. Beveridge, the translator of Babur's Memoirs (published in 1921), received from the Deputy Commissioner of Fyzabad copies of texts of the two mosque inscriptions, one on the pulpit, the other on the outside, the inscriptions were still *in situ* (as she tells us) (*Baburnama*, tr. A.S. Beveridge, Vol.II, Appendix IV, pp.lxxvii-lxxix); and the two texts reproduced by her fully accord with those given by Ashraf Husain, the pulpit one entirely and the one on entrance in respect of the first three couplets read by Mrs Beveridge's informants, who could not decipher the further couplets while Ashraf Husain has been able to read all of them. Justice Agarwal should have asked himself whether there has been any long ancient or old inscription written in unfamiliar characters (like Asoka's edicts or Samudragupta's Allahabad inscription), the words or clauses of which have not been differently read by epigraphists during the last 150 years. Should they then be regarded as forgeries, though on all essential points they agree, as is the case with the Babri Masjid inscriptions? Why should, then, Justice Agarwal tax Ashraf Husain and Desai for not giving the genuine text of the pulpit inscription(s), when their reading is manifestly the most accurate and complete of all? Justice Agarwal's accusations against Dr Ziauddin Desai, the Chief

Epigraphist, ASI, of changing the meaning of its text (**Para 1654**) is entirely uncalled for.

1.8. Justice Agarwal resorts to the most strained reasoning for justifying his censures. Ashraf Husain says that though the pulpit inscription was destroyed in the riot of 1934, he was able to obtain an "inked rubbing" or estampage from Mr Sayyid Badrul Hasan of Fyzabad. Mr Justice Agarwal declares his agreement with the opposing ("Hindu") party that no such person existed! No proof of such a claim is offered. Nor does Justice Agarwal apparently know that estampages are preferable to transcripts because they reproduce the original shape of letters — essential from a palaeographic point of view. Justice Agarwal holds that Ashraf Husain should have preferred a transcript to the estampage (**Para 1467).** It will be seen from Plate XVII (b), opposite page 59, of the *Epigraphia Indica – A.&P. Supplement, 1965*, under discussion, that its writing again is *tughra*-influenced *nasta'liq* like that of the entrance inscription at Plate XVII(c). This would not have been clear if Ashraf Husain had merely reproduced a hand-transcribed text such as the one published by Beveridge or the copy presumably made by Maulvi M. Shu'aib for ASI, Norhtern Circle, in 1906-07. Ashraf Husain duly cited the Annual

Report of the Office of the Archaeological Surveyor, Northern Circle, Agra, for 1906-07, which, if Justice Agarwal had any doubts about the matter, the Bench could have called for from the Government of India just as it had directed the Government of India to provide a translation of the extract from Tieffenthaler. In any case, our photographs show that the original inscription actually stood over the entrance before 1992 and the photographed text accords with the plate published by Ashraf Husain. Its mode of *tughra*-influenced *nasta'liq* also proclaims its early Mughal date.

(C) Mir Baqi

1.9. It is difficult to understand why Justice Agarwal is willing only to consider as preferable the reports about two inscriptions in the Mosque (one of these must be the faulty one substituted in the pulpit for the original destroyed in 1934, reported by Ashraf Husain), which were obtained by a court in 1946. One of these inscriptions was quoted as saying that "by the order of Shah Babar, Amir Mir Baki built the resting place of angles (*sic*) in 923 AH, i.e. 1516-17" — i.e. ten years before Babur's victory at Panipat! The other inscription (presumably the entrance one) was so read as to tell us that "Mir Baki of Isphahan in 935 AH, i.e. 1528-29 AD" (sentence left incomplete in

the judgement) **(para 1481)**. Justice Agarwal insists on the reading "Isfahani" for the correct reading "Asaf-i sani", as deciphered in the *Epigraphia Indica, A.&P. Supp., 1965*, and then by so doing he cannot find 'Mir Baqi Isfahani' or 'Mir Baqi', exactly with that name in Babur's Memoirs **(Paras 1477 and 1583)**. And this helps him to consider Mir Baqi as non-existent or unidentifiable **(Para 1477)** and the inscriptions as forgeries. It may be mentioned in clarification that 'Mir' here is a mere abbreviation of *amir* (noble) and that 'Isfahani' is a misreading of Asaf-i Sani, the Second Asaf (Grand Vizier of Soloman).

1.10. It is strange that Justice Agarwal did not accord due consideration to the following two entries in the *Baburnama*, which alone are sufficient to show that Baqi was a historical personage and actually Babur's commandant of Awadh (Ayodhya). Being Babur's subordinate, Babur naturally does not call him *amir* or *mir*, since it was not a part of his name, as in some other cases where the word Mir occurs in personal names referred to by Babur. The passages concerned occur in Eiji Mano's edition of original Turki, Kyoto, 1995, on pp.605-6, Abdur Rahim Khankhanan's Persian transl., and in Beveridge's English transl. II, pp.684-85, and in W.M. Thackston's

English translation of the *Baburnama*, New York, 1996, pp.443-444. The entries make it clear that while Babur was on a campaign crossing the Gomti and then the Ganga, 'Bāqī Tāshkandī' joined his camp coming with "the Awadh (Ayodhya) troops" (*Awad chariki*), on 13 June 1529. On 20 June, 'Bāqī *Shaghāwal*' was given leave to return along with his Awadh troops ('Awad *chariki*'). These references (see Note 1.2 attached for full quotes) make it clear that (1) Baqi was the commandant of troops at Awadh (Ayodhya), so that here the Babri Masjid inscriptions stand confirmed; and (2) he was a native of Tashkant and bore the official title of *Shaghawal*, so that contrary to Justice Agarwal's argument (**Para 1477**), Baqi Tashkandi and Baqi Shaghawal refer to the same person. The 'Shaghāwal' (Persian, *sazāwal*) used to be an official of rank who could not be impeded when fulfilling royal orders by anyone howsoever high. (Justice Agarwal admits that an explanation of *shaghawal* as an officer was offered by Professor Shireen Moosvi, an expert witness before the Bench **(Para 1365)**, but the Justice obviously paid little heed to this).

1.11. It is thus clear from the above that Justice Sudhir Agarwal's line of reasoning is based on untenable assumptions. If according to him, Babur was not concerned with the construction of

Babri Masjid, one wonders why the learned judge should hold forth at such length on his weaknesses of character as a believing Muslim. We are told by the Justice that Babur was "a completely Islamic person and (so?) lacked tolerance to the idol worshippers" **(Para 1563)**; and in **(Para 1570)** he goes on to censure not only Babur and but also the historians who have written appreciatively about him. Finally, we have the following judgement on medieval Indian history as a whole:-

> "Another surprising aspect was that the Indian subcontinent was under the attack/ invasion by outsiders for almost a thousand or more years in the past and had been continuously looted by them. Massive wealth continuously was driven off from the Country." **(Para 1611)**

This sentence suggests a rather one-sided view of the history of medieval India. Was India before the British ever governed from outside of it, from a place to which wealth could be continuously transferred? Whoever looted, whether Sultans or Rajas, lived within India.

(D) Mosque Datable by Style and Technique

1.12. Suppose the inscriptions in the Babri Masjid did not exist, could one then declare that it could have been built in Aurangzeb's

time as Mr Justice Agarwal concludes **(Paras 1601 and 1645)**? What Justice Agarwal does not seem to have taken into consideration is the fact that there was considerable change in the styles of architecture, including mosque architecture, between the times of Babur and Aurangzeb; and it can easily be established, by the style and technique employed in a building, whether it was built in the pre-Mughal or early Mughal times or later. The Babri Masjid is recognizably built in the Sharqi style of architecture (seen noticeably at Jaunpur) with the characteristic form given to the propylon. The domes though large are flattish and heavy. This style became obsolete soon after; and well before Aurangzeb's time, light (even bulbous) domes with free standing minarets became the hall-mark of a mosque. See Note 1.3, annexed, contributed by Dr S. Ali Nadeem Rezavi. It is impossible to conceive that a mosque built in Aurangzeb's time or later would have had the design or exhibit the building technique of the Babri Masjid. All this is fatal to Justice Sudhir Agarwal's attempted late dating of the monument.

(E) The Evidence From The ASI's Report that the Justice Overlooked

1.13. Justice Agarwal has high praise for the team of ASI officials, their conduct of excavations and their Report, in which he reposes full trust (see paper III). One would, therefore, assume that anything stated in this Report should obtain his approval.

1.14. In the Report in Chapter VIII, under the caption "Arabic Inscription (*sic*)", on pages 205-6, there are described two Arabic inscriptions on slabs, both taken, so we are told, from "debris lying above the topmost floor of the disputed structure", the ASI's euphemism for the Babri Masjid. One contains parts of verses from the Quran, and the other, the single word "Allah". In the case of both it is stated that they are written "in relief Naskh style (of calligraphy) of early sixteenth century AD."

1.15. Now, how could these inscriptions assigned by the ASI to the early 16th-century (so of around 1528, the date of construction of the Babri Masjid), come to be there, if the mosque was constructed not in 1528 AD during Babur's time, but in the reign of Aurangzeb, 1659-1707 AD, some 150 year or more later? To rephrase a question Justice Agarwal has asked of others: What motive could Messrs Manjhi and Mani have had in revealing the above inscriptions that so cruelly puncture the bubble of a convenient speculation?

1.16. There is the further matter of a carbon date. We do not have the same trust in the ASI's Report that Justice Agarwal reposes, and by its depth (47 cm) it seems certain that in trench G6 the charcoal sample that was sent for carbon-date was below Floor 2, not above it. However, for the present let us quote the ASI's Report's commentary on it (p.54):

> "The C-14 date from the contemporary deposit of the foundation of the disputed structure [Babri Masjid] is 450± 110 BP (1500±110 AD) which is quite consistent, as determined from the charcoal sample from trench 6G."

This means that the construction of Babri Masjid cannot be later than AD 1600 and should normally be placed much closer to AD 1500. So where, if ASI's word is sacrosanct, does it leave the attribution of the alleged destruction of the Ram temple and foundation of the Masjid to the hand of Aurangzeb who ruled from 1659 to 1707?

The ASI's Report on this carbon date is quoted by Justice Agarwal himself in **Para 3924** of his judgement, but apparently its implicaitons escaped his notice, or he simply failed to read what had been transcribed at his direction.

1.17. It may be mentioned, finally, that the authors of the ASI Report directly date the foundation of Babri Masjid to "early sixteenth

century" (Report, p.270); since Justice Agarwal would not allow any "objections against ASI" (**Para 3989**), why should this finding be rejected?

Conclusion: No Consciousness Among Babri Masjid Builders of Having Demolished a Temple at the Site

1.18. The attack of the 'Hindu' parties on the genuineness of the inscriptions of Babri Masjid inscriptions — never doubted until the present litigation, nor by any historian or epigraphist till the current day — has this advantageous consequence for them that they become absolved from considering the implications of the texts of the two inscriptions, the gateway inscription being fairly long. *If* a temple had been demolished for the glory of Islam and the religious merit of the builders, would they not have first of all proclaimed the fact in these inscriptions? Given the alleged circumstances, it seems extraordinarily unnatural that they should have lamentably failed so to do. There is the example of the Qubbatu'l Islam (*vulg*. Quwwatu'l Islam) mosque at Qutb-Delhi, where a well-known inscription proclaims such a fact (see Y.D. Sharma, *Delhi and its Neighbourhood*, ASI publication, Delhi, 1974/1990, p.52). Why, then, should the builders of the Babri Masjid

have been so silent and withdrawing about their act of temple demolition? Clearly, the answer must be that they were not aware that they had destroyed any temple, either because they had built the mosque on vacant land or, as from the archaeological excavations, as we learn now (see Paper III), the land was already under an eidgah or qanati mosque along with some open ground.

No theory of the construction of the Babri Masjid can be acceptable to any impartial person unless this vital piece of evidence in the form of the Masjid inscriptions is given due importance.

1.1. NOTE 1 to Paper I

Note on Fuhrer's texts and translations of Babri Masjid Inscriptions in his* The Sharqi Architecture of Jaunpur*, Calcutta, 1889, pages 67-68

1.1.1. Fuhrer's transcriptions and translations of the two inscriptions in Persian (forming his Nos.XLI and XLII) are obviously full of errors, and wrong conclusions have been drawn from them by him.

1.1.2. Fuhrer himself says of his Insc. No.XLI, "written in Persian poetry" that "the letters of this inscription have been mixed together by the copyist" — i.e. by *his* copyist and not the original scribe. In the very second hemistich the initial words *ba-shāne kih bā* as read by the Fuhrer copyist show his illiteracy in reading Persian verse. This cannot now be corrected even by reading *basāne kih bā*, in the manner suggested in the *Epigraphia India (Arabic & Persian Supplement)*, 1965 (henceforth referred to as *EI (AP), 1965*), p.60, or by the latter's editor's suggestion, *binā-i kih bā*. This is because the word *bā* (with) under all these constructions remains absolutely meaningless. *EI (AP), 1965*'s own first inscription from Babri Masjid (on p.59) shows that *bā* could only be used if the edifice was meeting something, like *gardūn* (sky). In Fuhrer's version the edifice is marching towards the sky not meeting 'with' the sky! Similarly, the third hemistich in Fuhrer's reading is wrong, since it reads *binā karda-i in <u>kh</u>āna-i pāidār*, which has one syllable extra. Compare the third hemistich in the above-mentioned *EI (AP) 1965's* first inscription: *Binā*

karda in mahbiṭ-i qudsiyān rā, which by the use of the terminal word *rā* avoids the *izāfat* after *karda*. The above comparisons with *EI (AP)'s 1965*'s first inscription bring one to the irresistible conclusion that Fuhrer's reading of the six hemistiches is not only extensively wrong but that the inscription he was reading is really identical with *EI (AP) 1965*'s own first inscription. It is curious that the *EI (AP) 1965's* editor missed the fact that both inscriptions, supposed to be distinct ones, occupied the *same position* in the mosque: the one read by Fuhrer, is said to be "on the *miṁbar*, right-hand side of the masjid", while Inscription No.1 of the *EI (AP) 1965* is said to have been "built into the southern side of the pulpit of the mosque". In other words, we have here the same *miṁbar* or pulpit-inscription. This is also confirmed by the fact that both the *Gazetteer of the Province of Oudh*, 1877-78 and Nevill's *Fyzabad District Gazetteer*, 1905, have spoken only of *two* Persian inscriptions at the mosque. It may be seen that the *EI (AP), 1965*'s pulpit-inscription gives the date in the chronogram "*buwad kh̲air bāqi*" (giving the value 935 (A.H.) = AD 1528; which is missed by Fuhrer).

1.1.3. One can see how Fuhrer's copyist created a very erroneous text of the pulpit inscription. Having read some words correctly, while totally at loss with others, he sought to make up a rhyming text as best as he could. Having wrongly read *ki 'adlash* as *khadiv-i jahan* he read '*inān* (at the end of the second hemistich) forgetting that with the word *bā* which he had correctly read, this was inadmissible. He was totally floored by *mahbiṭ-i qudsiyān rā* in the third hemistich and inserted the mundane words *kh̲āna-i pāidār* instead, forgetting that the *izāfat*

this would require after the word *karda* would make it violate the rhyme. He could not make anything of the word *Bāqī* at the end of the fourth hemistich, and so put in *khan* after it, to rhyme with *'inān*, his misreading of the terminal word of the second hemistich.

1.1.4. A similar string of errors abounds in Fuhrer's copyist's reading of the gate inscription, written like the pulpit one in the now archaic *tughra*-influenced style of writing. This is given as Plate XVII (c) in *EI (AP) 1965*, opposite p.59. Here Fuhrer's copyist gave up on the first hemistich and in the second read *kunad* ('does') for *kih* and then read *qalam* instead of *'ālam* and tried to make up some sense by reading *jāwidānī* instead of *lāmakānī*. He gave up on the third to sixth hemistiches, but his reading of the seventh and eighth hemistiches is not only wrong but ungrammatical, since the sentence remains incomplete without the necessary verb (from *chunān shahinshah* to *miṣāl-i shādmānī*). In the *EI (AP) 1965's* version not only are the words correctly read, but the verb *dar girifta* is duly supplied. The Fuhrer reading of the tenth hemistich (*ki khāqān-i daulat o faghfūr-i ṣānī*) is absurd, because no noble however great (*mīr-i mu'azzam*) could be declared an Emperor (*khāqān, faghfūr*). The correct reading is given in *EI (AP) 1965*, p.61: *ki nāmash Mīr Bāqī Āṣaf-i ṣānī* meaning: "whose name is Mīr Bāqī, a second Āsaf (minister to King Solomon)." Even the hemistich containing the date is wrongly read by Fuhrer: *ki nuhṣad sī (930) buwad Hijarat bi-dānī*. The word 'Hijri' (though generally regarded as superfluous, like 'A.D.' today), *not* 'Hijarat', is used for the Hijri date. Not only is the use of Hijarat here a piece of illiteracy,

but its position after *buwad* is ungrammatical. The correct reading is given in *EI (AP) 1965: 'ki nuhsad sī panj (935) buwad nishānī'*. In other words, the date is 935 AH, not 930.

1.1.5. The erroneous readings of Fuhrer's copyist are obvious from the very fact that his date 930 corresponds to 1523 AD, while both the inscriptions as read by (or for) Fuhrer himself give the name of Babur as the ruling king. Fuhrer's consequential statement (p.67) that "Babar's masjid at Ayodhya was built in AH 930 or AD 1523 by Mir Khan" is absurd, since Babur did not even occupy Delhi until 1526. We have already shown that "Mīr Khān" is a patent misreading by Fuhrer's copyist for "Mir Bāqi."

1.1.6. Here it may be mentioned that much earlier than Fuhrer, the dates were correctly read in these *two* inscriptions in the Mosque. *The Gazetteer of the Province of Oudh*, edited by W.C. Benett and published in 1877-78, in Vol.I, at pages 6-7, states in its entry on Ayodhya in its paragraph on 'Babar's mosque':

> "*In two places* in the Babari mosque, the year in which it was built, 935 H., corresponding with 1528 A.D. is carved in stone along with inscriptions dedicated to the glory of the Emperor." (italics ours)

This statement was wrongly and vainly contested by Fuhrer (*Sharqi Architecture*, p.68, note 1) — mainly because of his own copyist's misreadings.

1.1.7. Nor was Fuhrer's version of the inscriptions accepted by any official source after the publication of his work in 1889. In H.R. Nevill's *Fyzabad District Gazetteer*, Preface dated 1905 (reprinted, 1920), p.179, it is clearly stated, under the entry on Ajodhya, in respect of Babri Masjid:

> "The mosque has two inscriptions, *one on the outside and the other on the pulpit*; both are in Persian and bear the date 935 Hijri. *Of the authenticity of the inscriptions there can be no doubt…"* (*Annexure 2*) (Our italics).

The details in this statement show that the information is not borrowed from the earlier *Oudh Gazetteer,* but is based on independent scrutiny.

1.1.8. It may further be observed that Mrs A.S. Beveridge writing in 1921, in her translation of Babur's Memoirs by and large correctly read the text of the pulpit inscription (as in *EI (AP), 1965*) and partly read (correctly) the other inscription (A.S. Beveridge, *Baburnama,* II, pp.lxxvii-lxxix. She too was informed only of the existence of *two* (*not* three) Persian inscriptions in the mosque.

Conclusions:

1.1.9. (1) There were only *two* Persian inscriptions in the Mosque, one on the pulpit, the other on the outside.

(2) As recorded by the *Oudh Gazetteer*, 1877-78, *both* of these contained the date 935 (AH = 1528 AD)

(3) Fuhrer's copyist misread the texts of both the inscriptions in 1889, being obviously unfamiliar with its stylized *nasta'liq* writing. The text of the pulpit inscription was correctly read by Mrs. Beveridge (1921) and by the editor of these inscriptions in *Epigraphia Indica (Arabic & Persian Supplement*), 1965, from an estampage. Fuhrer's reading 'Mir Khan' is an obvious error for 'Mir

Bāqi' in the pulpit inscription. He also misread the verse in the other inscription, which actually gave the date as 935, *not* 930, the one read by Fuhrer.

(4) Fuhrer's conclusion that 'Babar's mosque' was constructed in 930 (AD 1523) by one Mir Khan is absurd, since Babur was not in possession of this area in 1523 (he won the Battle of Panipat only in 1526). Since the name 'Mir Khan' is the product of a copyist's misreading, it is needless to say that no person bearing this name is mentioned among Babur's nobles in any historical source.

NOTE 1.2

TWO REFERENCES TO MĪR BĀQĪ

BUILDER OF BABRI MASJID

IN BABUR'S MEMOIRS

1.2.1. (1) Eiji Mano's edition of *Bāburnama*, Kyoto, 1995, pp.605-6:-

Page 605: Maqām boldī Bāqī Tāshkandī Awad charīkī bīla aushaul….

Page 606: Namāz-i dīgar Bāqī Shaghāwal bīla Awad charīkī kā rukhṣat bīr yaldī.

(1A) 'Abdu'r Raḥīm Khānkhānān's Persian version British Museum MS Or. 3714

Folio 517b:-

Bāqī Tāshkandī bā lashkar-i Awadh hamān roz āmda mulāzimat kard.

Folio 518a

namāz-i dīgar Bāqī Shaghāwal rā bā lashkar-i Awad rukhṣat dāda shud.

(2) A.S. Beveridge's translation of *Bāburnāma*, Vol.II, p.684:-

Page 684: (June 13th [1529]: Today, Bāqī *Tāshkīndī* came in with the army of Aūd (Ayodhya) and waited on me.

Page 685 (June 20th) … At the Other Prayer of the same day, leave was given to Bāqī and the army of Aūd (Ayodhya).

Note: By a slip Mrs Beveridge omits to write 'Bāqī the *shaghāwal'* instead of Bāqī in the same passage.

(3) W.M. Thackston's translation of *Bāburnāma*, pp.443-444:-

Page 443: Bāqī Tashkandi came with the Oudh army that day to pay homage.

Page 444: That afternoon Bāqī Shiqavul and the Oudh army were dismissed.

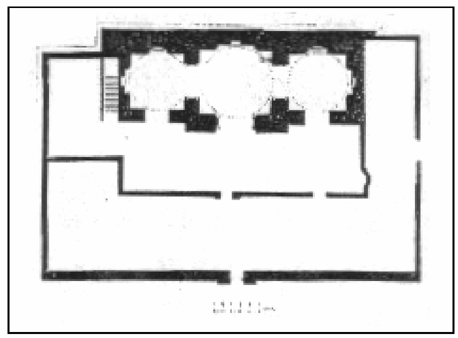
Note: ‘Oude’ or ‘Oudh’ represented the name ‘Awadh’, which in popular and Indo-Persian use, was a variant of Ayodhya. Compare Tulsidas’s ‘Awadhpuri’ for Ayodhya.

NOTE 1.3

Design and Building Techniques of Babri Masjid, Ayodhya

(Contributed by S. Ali Nadeem Rezavi)

1.3.1. The basic plan of the Babri Masjid is reminiscent of the Tughluq, Lodi and Sharqi architectural traditions. It consists of a western liwan (prayer chamber) divided into aisles and a central nave. All the three are single-bayed, fronted with arched openings and covered with domes. The nave is comparatively larger than the flanking aisles. To the east is a small courtyard, which at some later stage was further enlarged with the placement of an outer screen and a gateway.



Plan of Baburi Masjid, Ayodhya
(Western side topmost)

1.3.2. The whole structure, as was common in the Tughluq and Lodi periods was built of rubble stone masonry overlaid with a thick veneer of lime plaster. As visible from a photograph of the western wall of the mosque, rubble stones alternated with layers of calcrete and sand stone blocks. Similar type of construction is witnessed in other 13th to 15th Century structures located in and near Ayodhya. An example can be given of the two very large 'graves' of the 'prophets' – one near the palace of the Raja of Ayodhya, and the other at the old cemetery on the outskirts of Ayodhya, and the medieval monuments around them.



1.3.3. The nave of the western liwan is fronted with a high propylon, reminiscent of the architecture of the Sharqi period.



1.3.4. The propylon is provided with a trabeated opening covered with a drooping eave resting on heavy stone brackets. The sides of the pylon are decorated with heavy stone projected balconies and a series of niches in the form of arch-and-panel articulation with floral medallions embossed within.



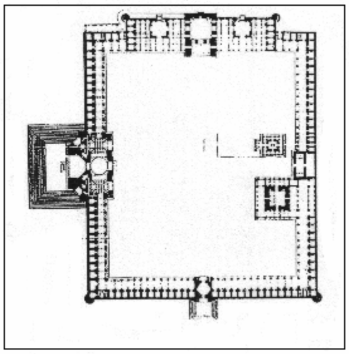
1.3.5. The arches employed throughout the structure are pointed arches which were generally preferred during the period before the establishment of the Mughal mode of architecture under Akbar. The Mughals, from the period of Akbar onwards, preferred the four-centred Iranian arch, which due to its profuse use came to be known as the 'Mughal Arch'.



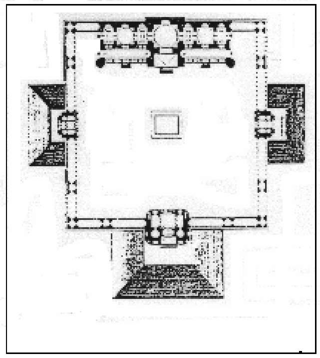
1.3.6. The domes of the Babri Masjid were typical 'Lodi Style' domes, raised with the help of stalactite pendentives (as against squinches), resting on octagonal heavy necks and topped with inverted lotus crestings. The domes of Babri Masjid at Ayodhya were similar to the domes of the 'Moth ki Masjid' in Delhi, constructed during the reign of Sikandar Lodi (1498-1517) by his prime minister Miyan Bhuwa.



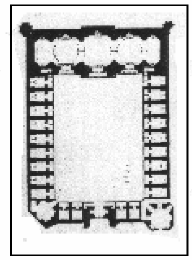
1.3.7. From the period of Akbar onwards, the style of mosque architecture drastically changed: Now the preferred style was the mosque having a centrally located courtyard surrounded on all sides by the *riwāqs* (cloisters) and the liwan. The cusped arches, baluster columns and other intricate decorative features were also added.



Jami' Masjid, Fathpur Sikri



Jami'Masjid, Shahjahanabad, Delhi



Khairul Manazil Mosque Delhi

1.3.8. By Shahjahan's time a further innovation took place – the minaret started emerging as a part of the mosque complex and by the period of Aurangzeb it became almost an essential feature.

1.3.9. The mosques built under Aurangzeb and later Mughals were totally of a different kind as compared to the plan and elevation of the Babri Masjid. Almost all of them incorporate architectural features developed and used by the architects of Shahjahan. Thus nearly all of them have bulbous domes (a fair number of which were ribbed and of marble) resting on constricted necks; the preferred arch type was that of the multifoliated cusped arches and tall domineering two or four minarets – almost all the mosques from this period onwards had the minarets as an essential architectural feature. Examples can be given of such imperial mosques as the Badshahi Mosque at Lahore, the Jami' Masjid and the Idgah Mosques of Mathura, the Gyanvapi and the Jami Mosque of Varanasi, as well as the Jami' Masjid of Muhammad Shah at Aligarh.

PAPER II

THE JUDGEMENT AND THE LORE OF RAMJANMABHUMI

2.1. While there was no disagreement among the parties involved in the suit that the belief in Ayodhya being the birth-place of Lord Rama is currently widely held (**Para 4316**), this is far from saying that this belief goes in time to remote antiquity or that Ayodhya has always been a great pilgrim-centre on account of its association with Lord Rama's birth-place or that the worship of Lord Rama has been conducted there (or at any site therein) from "time immemorial", as decreed by Justice S. Agarwal (**Para 4070**)

2.2. Justice Sudhir Agarwal rightly regards inscriptions as a primary piece of evidence (**Para 4146**), so let us first see what the Sanskrit inscriptions tell us. None of the Sanskrit inscriptions at or relating to Ayodhya before 1528 contain any reference to Lord Rama directly by that name or to any sanctity attaching to Ayodhya on account of its being the place of his birth.

2.3. The first inscription at Ayodhya dated to the first century BC/AD on palaeographic grounds is in Sanskrit, by Dhanadeva, the ruler of Kosala, who built a shrine (*niketan*) in honour of his father

Phalgudeva (*Epigraphia Indica*, Vol.XX, pp.54-58). There is here no reference to any deity at all. A memorial inscription at Belgaum, Karnataka, of AD 105 (published in *Epigraphia Indica*, XXXIX, pp.183-188), is inscribed on a memorial pillar raised for a Brahman of the Kashyapa gotra hailing from Sāketa (Ayodhya) who is praised for his knowledge of the Yajurveda and performance of sacrifices, but with no reference anywhere to his worship of Lord Rama or even devotion to Vishnu.

2.4. A copper-plate containing a grant made by Samudragupta, the famous Gupta conqueror, and dated to Year 5 of the Gupta era (=AD 328-29) was issued from "the great camp of victory, containing ships [boats?], elephants and horses, situated at Ayodhya". It gives no title to Ayodhya, by which to suggest any sanctity attaching to it on any deity's account, let alone on Lord Rama's (D.R. Bhandarkar, et al., *Corpus Inscriptionum Indicarum*, Vol.III, new edition, pp.228-231). Emperor Kumaragupta's stone inscription at Karamdanda, a village 12 miles form Faizabad /Ayodhya, is dated Gupta Year 117 (AD 435-36). It pays obeisance to the image of the deity Mahadeva, 'known as Prithvishvara', and speaks of Brahmans from Ayodhya, 'conversant with penances, recitation of sacred texts, the *mantras*, the *sutras*, the

bhashyas and *pravachanas*'. No reference is made to the worship of Lord Rama or to Brahmans devoted to his worship. (ibid., pp.280-282) In the Damodarpur Copper Plate Inscription of Vishnugupta of the Gupta Year 224 (=542-43 AD), Ayodhya is again simply mentioned with no epithets for either sanctity or association with Lord Rama (ibid., pp.361-63). Such is also the case with the 8th–century Dudhpani rock inscription from Jharkand which refers to Ayodhya without any honorifics or sense of its sanctity, while speaking of three merchants from that place (*Epigrpahia Indica,* II, pp.343-45)

2.5. The inscription which contains a reference to it next in time is the Chandavati copper plate of the Gahadawala ruler Chandradeva. It is dated Samvat 1150 = AD 1093, and its find-spot (Chandrauti) is near Varanasi. The ruler refers to his visit to Ayodhya, in what is, for our purposes, a remarkable passage:-

> "after having bathed at the Svargadvara *tirtha* at the sin-effacing (confluence) of the Sarayu and Ghargara at Ayodhya — also called Uttara Kosala — on Sunday the fifteenth day of the dark half of the month of Asvina in the year eleven hundred fifty increased by fifty, also in figures Samvat 1150, Asvina vadi 15, Sunday, on the sacred occasion of a solar eclipse — after having duly satisfied the sacred texts, divinities, saints, men, beings

> and the group of the departed ancestors — after having worshipped the sun, whose splendour is potent in rending the veil of darkness — after having praised him (Shiva) whose crest is a portion of the moon and whose body consists of the earth, water, fire, air, ether, the sacrificing priest, the moon and the sun — after having performed adoration to the holy Vasudeva, the protector of the three worlds — after having sacrificed to fire an oblation of abundant milk, rice and sugar — after having offered oblations to manes — have conferred [the grant on the Brahmans]…"

Here we see that the 'sin-effacing' quality at Ayodhya derives from the confluence of the rivers, and worship is offered to Lords Shiva and Vasudeva, but Lord Rama himself escapes mention, what to speak of any realization that any sanctity adhered to Ayodhya from any association with Lord Rama. The inscription has been published with full discussion, text and translation in *Epigraphia Indica*, XIV, pp.192-196, and the extract given above is from the translation furnished in it.

2.6. We now finally come to the controversial inscription that was allegedly found by the mob that demolished the Babri Masjid in 1992. For reasons given in Note 2.1 annexed to this Paper, it is likely to be a plant, having been lifted from the Lucknow Museum. This is

partly allowed for by Justice Agarwal himself at least in **Para 4384**, when he does not insist that this inscription proved the construction of a Vishnu-Hari temple at the site of the Babri Masjid, which he, indeed, should have if the *karsevaks'* alleged discovery of it in the debris of the Babri Masjid was genuine: The Lucknow Museum's missing inscription had actually been found in Treta-ka-Thakur in Ayodhya. The date in the extant inscription has been erased, though it belongs obviously to the late Gahadavala times. Its exact date would be 1241 Samvat or AD 1184, if it is identical with the Lucknow Museum inscription, which bore this date, according to the summary published by A. Fuhrer (Sharqi *Architecture at Jaunpur*, ASI, Calcutta, 1889, p.68). The extant inscription records the building of a Vishnu-Hari temple, but the name 'Rama' for the deity never occurs. The claim that it represents the site of *Ramajanmabhumi* had been rejected by VHP's own witness Dr K.V. Ramesh, whose reading of the inscription Justice Sudhir Agarwal has also accepted **(Para 4154)**. The inscription begins with the praise of Lord Shiva; and attributes the beauty of Ayodhya, to "the presence of Avimukta (i.e. Shiva), goddess Visalakshi (i.e. Parvati) and Lalita (Durga)" with no mention of Lord Rama. Even when referring in one sentence to Vishnu, his praise covers his four

incarnations: "who killed Hiranyakapisu, subdued Bana in battle, destroyed the prowess of Bahraja and performed many such deeds, he killed the wicked Dasanana (Ravana), who could be more than ten." (For the text and translation of the inscription see Pushpa Prasad, *Proceedings of the Indian History Congress*, *Mysore, 2003* (IHC, Patna, 2004), pp.351-359). Clearly, even to the builders of the Vishnu-Hari temple, Rama, as incarnation of Vishnu, did not require to be mentioned separately or specifically despite the temple being in Ayodhya. Indeed, the presiding deity at Ayodhya was held to be Shiva, not even Vishnu.

2.7. Such is the evidence of inscriptions which unlike many Sanskrit texts can be dated fairly precisely, either because dates are given on them or on palaeographic grounds. Nowhere do we find in them any remote reference to the sanctity enjoyed by Ayodhya as the birth-place of Lord Rama.

2.8. The same is the case with two very well-known dated texts, both of immense historical importance. One is the account of the travels of the famous Chinese Buddhist pilgrim Huien Tsiang (name also transcribed as Yuan Chwang, and, in Pinyin, Xuan Zhuang), who visited Ayodhya ('O-yu-t'o' or 'A-yu-te') in the time of

Harshavardhana, in the earlier half of the 7th century. His description of the city runs to nearly five pages in Samuel Beal's translation (*Buddhist Records of the Western World*, London, 1884, Vol.I, pp.224-229; also see the summary with commentary on his account in Thomas Walters, *On Yuan Chwang's Travels in India, 629-645 AD*, London, 1905, Vol.I, pp.354-359). Yet nowhere do we find any reference to the town being celebrated as a birth-place of Lord Rama or even of any great Brahmanical establishments or temples there.

2.9. The second text is that of Alberuni's *Kitab al-Hind*, a matchless survey of Indian religion, culture and geography compiled in Arabic in *c*. 1035 AD, and translated by Edward C. Sachau into English as *Alberuni's India*, 2 volumes, London, 1888. Here there are various references to Lord Rama mainly in connection with his overthrow of Ravana, his conquest of Lanka, and his crossing by the Dike of Rameshwara to reach Lanka. There is mention of the recommended size of his idol (I, p.117), his being an Incarnation of Vishnu (I, p.397), his killing a Chandala ascetic (II, p.137), and a notice of the *Ramayana* (I, p.310) (all references are to Sachau's translation). But though Ayodhya ('Ajodaha') is described (I, p.200) in his sketch of the main cities and routes, no connection of it with Lord

Rama is mentioned, in contrast to Mathura whose connection with God Vasudeva (Krishna) is explicitly mentioned (I, p.199).

2.10. When we turn to Sanskrit texts, it is to be observed that no Sanskrit text composed before the 16th century AD has been cited before the Allahabad High Court, which in any passage lauded Ayodhya explicitly as the birth-place (*janmabhumi* etc.) of Lord Rama, not even Valmiki's Ramayana or attributed its sanctity as a pilgrimage centre to this cause (**Paras 4089 to 4091**); and this is tacitly admitted by Sri M.M. Pandey theVHP advocate (**Para 4092**)**,** and by Justice Agarwal himself (see **Para 4217** and **Para 4355**, concerning the Hindu belief in the location of Lord Rama's birth-place in Ayodhya).

2.11. We may now look into the text, which has really made the Rama story a household legend in the Hindi-speaking area, Tulsidas's *Ramcharitmanas*, completed in Akbar's reign some time around AD 1570. In it there is no reference to *Rama janmasthan.* The only reference that could be presented to the High Court is from its chapter Uttarkhand where Tulsidas speaks of his visits to Awadhpuri and witnessing Janm Mahotsav, the birth celebration of Lord Rama (**Para 4354**)**.** Could Tulsidas have ignored Ram Janmasthan, had such a site been identified by his time, and should he have then not mourned that

so holy a site had been desecrated by the construction of a mosque fifty years earlier? Quite obviously, Tulsidas was neither aware of the alleged Janmasthan nor its supposed desecration.

2.12. The issue is not here of the antiquity of Lord Rama — the period that the *Ramayana* of Valmiki was compiled is attributed by most scholars to the period 3rd century BC to 2nd century AD. The late D.C. Sircar, one of India's most eminent historians and epigraphists, in his monograph, *Problems of the Ramayana,* Hyderabad, 1979, pp.1-4, while denying the historicity of the Ramayana story, assigns to Valmiki's Ramayana, the dates we have just mentioned. He also points out (pp.28-30) that Rama begins to be mentioned among the heroes whom rulers aspire to emulate from the second century AD. From a historical point of view there can be no dispute with D.C. Sircar; but the real issue is not the antiquity of the Rama story, but the time *when* Ayodhya attained a particular repute as the *birth-place*, not simply the capital city of Lord Rama, from which arises the further issue of *when* any one began claiming any particular spot within Ayodhya as the site of Lord Rama's birth.

2.13. We have shown above that there is no evidence from inscriptions or from texts until the 16th century that there was any

particular spot within Ayodhya for the birth-place of Lord Rama. Abu'l Fazl's *A'in-i Akbari*, written in 1595, in passages submitted to the High Court, speaks of Ayodhya or Awadh as "the residence (*bungah)'* — not the birth-place — of Raja Ramchandra (text, Nawal Kishor ed., Lucknow, 1892, Vol.II, p.78; Jarrett's transl., ed. J. Sarkar, Calcutta, 1949, II, p.182). Similarly, when in 1608-11, William Finch visited Ayodhya, then quite contrary to Justice Agarwals representation of the sense of his passage (**Para 4375**), he did not at all refer to "the fort of Ramchandra where he was borne (sic!)". Finch's exact words are: "Here are the ruins of Ranichand'(s) [so spelt] castle and houses which the Indians acknowledge for the great God, saying he took flesh upon him to see the tamasha of the world." Moreover, according to Finch, pilgrims did not come here to visit Ramachandra's castle. but "wash themselves in the river nearby" (Text in W. Foster, *Early Travels in India, 1583-1619*, reprint, New Delhi, 1968, p.176).

2.14 The *Skanda Purana* is the first Sanskrit text, which mentions the existence within Ayodhya, among thirty-and-odd sacred spots, of one spot that it calls "Rama-janma" — Lord Rama's birth-spot (see A.B.L. Awasthi, *Studies in Skanda Purana*, Part III, Vol.I,

Lucknow, 1983, pp.75-83, ‘Ramajanma’ on p.83). But when was the *Skanda Purana* compiled?

2.15. Now, the *Skanda Purana* is a work with many versions. Thus, for example, “the S.V. Press (Bombay) and N.K. Press (Lucknow) editions of Skanda Purana vary considerably in the names of pradesas mentioned in the Kumarika Khanda. The former mentions 75 names, while the latter has only 63” (A.B.L. Awasthi, *Studies in Skanda Purana*, Part I, Lucknow, 1976, pp.25-26). Obviously, the text continued to be added to or altered till much after the original compilation, to produce variations of this scale. Even Dr T.P. Verma, a leading witness of VHP, also an epigraphist and Sanskritist, admitted that the *Skanda Purana* is not over 400 years old **(Para 4411, sub-para XXX).**

2.16. But the text is clearly still more recent. Under Mathura desa it mentions (II. Ii. 13, 12) Vrindavana as one of “the famous sacred spots of Vraja” (Awasthi, *Studies in Skanda Purana*, Part I, p.72). But there is no dispute that Vrindavana was held to be a purely celestial place until Sri Chaitanya declared a spot near Mathura to be the earthly Vrindavana, and this discovery occurred in 1515 AD (See Nalini Thakur, ‘The Building of Govindadeva’ in: Margaret H. Chase

(ed.), *Govindadeva: a Dialogue in Stone*, Indra Gandhi National Centre for the Arts, New Delhi, 1996, p.11). In fact, the place was called Dosaich, and the name Brindaban/ Vrindavana came into common use for it only in the 17th century, when sects other than those of Sri Chaitanya also extended recognition to it. Thus it is *not* possible for *Skandapurana's* text as we have it today to have been compiled before a time that must be much later than 1515, for it took time for Chaitanya's claimed discovery to be widely accepted.

2.17. Another proof of the latenes of the text is shown by the reference in the *Skanda Purana* to Sitapur. The *Skanda Purana* (VII.i.35.24-26, III.ii.39, 25, 35, 37, 293) says that Sitapura was founded by Lord Rama and named after Sita. It speaks of 55 villages near Sitapur held under grants by Brahmans, and some of them named by it have indeed been identified with those in the town's vicinity (Awasthi, *Studies in Skanda Purana*, Part I, p.128). But the name Sitapur is a popular alteration of the original name 'Chitapur', under which it appears in the *A'in-i Akbari*, the great Mughal gazetteer compiled in 1595. (See for Chitapur/ Sitapur: Irfan Habib, *An Atlas of the Mughal Empire*, Delhi, 1982, Text, p.28, col.c).

2.18. Clearly, then, the *Skanda Purana*, if we continue to regard it as a unified text, cannot be older than the seventeenth century with later additions being possible. And, if we concede that it can have interpolations made in it after the seventeenth century as well, then too the date of its reference to 'Ramajanma' site at Ayodhya becomes dubious owing to the supposition that it is one among the possibly many post-seventeenth-century interpolations.

2.19. In **Para 4384** Justice Agarwal seeks to find evidence of pilgrimage to Ayodhya on account of "the record of the Sikh religion showing that Guru Nanak Dev Ji came to Ayodhya in 1510 or 1511, told his companion that it is the birth place of Lord Rama." This evidence Justice Agarwal had discussed in **Paras 4333-4351** at length. In **Para 4351** he expressly accepted it only in so far as that "Guru Nanak while traveling to various places also came to Ayodhya", and held that nothing further could be assumed, contrary to the claims of the Hindu parties (defendants in Suit-4). Yet here, in **Para 4384** despite his earlier finding, Justice Agarwal is making use of the same piece of evidence, entering a detail he had not earlier accepted. It was submitted to him that the *janamaskhi* quoted for the purpose is not one recognized by Sikh scholars as reliable, that the standard account of

Guru Nanak based on traditionally recognized *janamsakhis* in M.A. Macauliffe's *The Sikh Religion*, OUP, Vol.I, London, 1909, giving an account of Guru Nanak's travels in Northern India on pp.43-84 never mentions Ayodhya among the places he visited. This is also the case with the account in Teja Singh and Ganda Singh, *A Short History of the Sikhs*, Orient Longmans, Bombay, 1950, pp.5-11. It is also clear that *darshan* or image worship is totally alien to beliefs that Guru Nanak propagated (see J.S.Grewal, *The Sikhs of the Punjab*, being Vol.II.3 of the *New Cambridge History of India*, Cambridge, 1990, pp.30-33, with Guru Nanak quoted as rejecting specifically the display of devotion to Krishna, Sita and Ram). It is thus clear that no reliance can be put on the alleged *janamsakhi*. One may recall here Professor W.H. McLeod's words of caution against using the *janamsakhis* for "our knowledge of the historical Nanak" (*The Evolution of the Sikh Community: Five Essays*, Delhi, 1975, p.23). How much more must this caution apply to a mention in an unrecognized *janamsakhi* like the one on which Justice Agarwal relies.

2.20. It may here be mentioned that the VHP's insistence on the popular name Masjid Janmasthan from about 1858 as proof of the mosque being built on Lord Rama's birth-site (**Para 4092, sub-paras**

(U) and (V)) obviously reverses the actual development of nomenclature. The name Masjid Janmasthan is only reported from documents of the mid-nineteenth century, when the Janmasthan lore had been established and the locality and neighbourhood of Ram Chabutra and Sita ki Rasoi (destroyed by the Karsewaks in 1992) had come to acquire the name.

2.21. Similarly, the fact that certain Muslim witnesses or pleadings in the legal proceedings after 1949 did not take issue with the fixing of the Ramjanmasthan in Ayodhya or the vicinity of the Babri Masjid **(Paras 4092(c); 4159; and 4161),** has no other significance than that they were merely repeating the current local belief. Such statements, as Justice Agarwal recognizes at least once **(Para 4161)**, have no historical value. Nevertheless, he proceeds to give the following ruling:

> "We are not concerned with the existence of that [Rama] temple [in actual fact?] but what we intend to point out [is?] that the existence of birthplace in this very area is an admission by the plaintiffs. The persons, jointly interested in the suit, are bound by the admission of any of them" **(Para 4397).**

The discussion of the extensive evidence we have examined above should leave us in no doubt that there exists no proof that any sanctity attached to Ayodhya or any place within it on account of its containing the birth-site of Lord Rama before the seventeenth, or more probably the eighteenth century; and even with regard to Ayodhya being the place over which Lord Rama had ruled, it is only in the late sixteenth century that Ayodhya as a place is first assigned an exceptionally high, sacred status on this account. It is, therefore, most unlikely that either in the 11^{th}-12^{th} century or in the 13^{th} and 14^{th} century a massive temple could have been built in Ayodhya to commemorate Lord Rama's site of birth, whether at the site of Babri Masjid, or elsewhere.

2.22. Now this conclusion should be of the greatest significance for deciding whether a mosque built in 1528 should have been demolished and then the bulk of the land handed over to build a Rama temple, when there is no proof that in 1528 or thereabouts anyone believed that the mosque represented the birth-spot of Lord Rama. A contrary assertion could be made only on basis of mere conjectures and surmises. But having offered this precise caution against conjectures and surmises, Justice Agarwal rules as follows in **Para 4374:-**

> "The only thing the Court should not to do is to base its conclusion on mere conjectures and surmises. Here we have not to consider the historicity of Ayodhya or Lord Rama but only to find out whether the place in dispute according to the belief, faith and traditions of Hindus is the site where Lord Rama was borne (*sic*!). Even if we have to draw an inference whether this is a place where Lord Rama is borne (*sic*!) we need not to record a finding like mathematical calculation but it has to be decided on the preponderance of probability. As we have already said that if Lord Rama was borne (*sic*!) at Ayodhya then there must be a place which can be identified for such purpose. It is no where suggested by plaintiffs (Suit-4) for the Muslim parties that except the property in dispute there was any other place in Ayodhya which is believed by the Hindu people as place of birth of Lord Rama. What they submit is that there was another temple on the north site of the property in dispute which is called Janmasthan temple and, therefore, that can be the place of birth. But the antiquity of that temple goes back to only about 200-300 years, i.e., not beyond 18th or 19th century."

Now the rejection of another Ram Janmasthan temple, currently extant, only on the grounds that its construction does not go beyond AD 1700, may not at all be historically sound, since, as we have seen,

the notion of the locale of the *janmasthan* of Lord Rama at any particular spot in Ayodhya may not itself go beyond the eighteenth century.

2.23. What is highly interesting is Justice Agarwal's insistence that it is not historical evidence (which he thinks must rest "on mere conjectures and surmises"), but "the belief, faith and traditions of Hindus", on which alone apparently one can rely, without the tedium of scrutinizing evidence and testing facts. When it comes to the story he wishes to authenticate, then, given the belief, etc., of Hindus, "mere conjectures and surmises" can be given full play. For example, simply on the basis of the Babri Masjid containing fourteen black basalt pillars, for which Justice Agarwal uses the word *kasauti,* Justice Agarwal offers us the following detailed narration of what must have happened:

> "As we have further discussed, the Hindus did not desist from entering the inner courtyard [when?] and continued not only to enter therein but to worship the place as well as the images (!) on the black *kasauti* pillars [set up by Muslims in the Mosque!]. What was the structure of the erstwhile temple before the disputed structure is not known but it appears that due to affixation of black *kasauti* pillars mainly at the central dome after the

> construction of the new structure [Babri Masjid], the Hindu people continued to worship thereat believing the same as the central point of the birthplace of Lord Rama. Since (*sic*) we do not find any detail as to how it was being worshipped earlier, but from the subsequent [post-1949?] conduct, practice and traditions, in the absence of anything contrary, one can reasonably believe that the (*sic*!) in the past also it must be the same." (**Para 4400)**

Now, what are the implications of this conjectural reconstruction? That while the Babri Masjid was built (let us remember, after demolishing a temple, in accordance with Justice Agarwal's judgement), its builders took care to install 14 black basalt pillars in or near the central dome in order to permit Hindus to worship "thereat", though in fact no images of divinities were to be found there. Had that been the case one wonders why did the *karsevaks* destroy all fourteen of the kasauti pillars, the fragments of only one being found by the ASI in the debris of the Masjid. This very action shows that the so-called *kasauti* pillars could not have been the objects of Hindu worship, contrary to Justice Agarwal's suppositions.

Finally, it is all a matter of faith:

> "Once we find that by way of faith and traditions, Hindus have been worshipping the place of birth of Lord Rama

> at the site in dispute, we have no reason but to hold in a matter relating to such a kind of historical event that, for all practical purposes(!), this is the place of birth of Lord Rama." (**Para 4407**)

If faith and religious propaganda were to be the deciding elements for establishing a "historical event" and its locale (birthplace of Lord Rama), then the Hon'ble High Court did not need to have gone into the historical evidence at all. The case stood prejudged.

2.24. We may now consider the further determination by Justice Agarwal of exactly where Lord Rama was born within the Babri Masjid campus. No text or claim prior to 1949 is produced to the effect that the spot where Lord Rama was born was situated right under the central dome of the Mosque. In 1949 when the Mosque locks were broken and a mob installed the idols under the central dome of the Mosque (a fact on which all the three judges agree), the idea clearly was that the act would absolutely prevent Muslim use of the mosque, since Muslims could not pray in front of an idol. Had the idols been installed anywhere else within the inner yard of the mosque, Muslim prayers could still conceivably be performed.

2.25. Justice Agarwal reads this violent move quite differently, by accepting the assertions of a stream of VHP witnesses in **Para**

4411, many (not all) of whom predictably declared before the Bench that the exact site is where the idols are now installed, as if the Muslims by building the central dome of the mosque in 1528 provided the exact spot where the *garba griha* of the future Ram temple could be raised and venerated as Lord Rama's birth-site! It should be noted that not a single of these witnesses was able to cite any pre-1949 documented assertion of the claim. One reads (after Hobsbawm) of the invention of tradition; here there is a flagrant invention of faith, an invention to justify a forcible act performed by a shameless breaching of the law. It is unfortunate that, from the above unsupported statements of one party in the suit, it should be decided that "a bare reading" of them "makes it clear and categorical (!) that the belief of Hindus by tradition was that birthplace of Lord Rama lie (*sic!*) within the premises in dispute and was confined to the area under the central dome of three-domed structure" of the Babri Masjid. **(Para 4412)**.

2.26. Both the violent acts of 1949 and 1992 (when the Masjid was demolished) thus receive their legitimization not so much on the basis even of faith, as on the basis of frenzied propaganda and post-facto inventions. Violators of law have thus, despite the presence of

courts of law, been able to successfully take over and trivialize the great Indian tradition of a benevolent and just Rama.

NOTE 2.1.

annexed to Paper II

THE VISHNU-HARI TEMPLE INSCRIPTION AND THE STORY OF AN ILLEGAL PLANT

2.1.1. A. Fuhrer (*Sharqi Architecture of Jaunpur*, Calcutta, 1889, p.68) noticed an inscription found at Ayodhya, "dated Samvat 1241, or AD 1184, in the time of Jayachandra of Kanauj, whose praises it records for erecting a Vaishnava temple." From these brief words it is not absolutely ruled out that Fuhrer merely assumed from the date Sam. 1241/1184 AD that the inscription referred to Jayachandra, the Gahadavala ruler, who ruled from AD 1170 to 1194 (Roma Niyogi, *The History of the Gahadavala Dynasty*, Calcutta, 1959, pp.102-12), without actually finding the name recorded in the inscription; and that, further, assuming him to be the contemporary ruler, he held Jayachandra to be responsible for building the Vaishnava temple whose construction the inscription recorded along with praise for the builder. These questions cannot, however, be directly resolved since the inscription described by Fuhrer has mysteriously disappeared.

2.1.2. This inscription had been reportedly found at Treta-ka-Thakur in the town of Ayodhya, and is described by Fuhrer as "written in twenty incomplete lines on a white sandstone, broken off at either end, and split in two parts in the middle" (Fuhrer, *op.cit.*, p.68). It was placed by Fuhrer in the Fyzabad Museum. According to Hans Becker, *Ayodhya*, Part I, Gottingen, 1986, p.52, it was then transferred to the Lucknow State Museum, where it was assigned No. Arch. Dep. 53.4. The inscription bearing this number was examined by Dr Jahnawi Sekhar Roy, with the cooperation of Dr. T.P. Verma. Though failing to read it, Dr Roy published its photograph in her 'Note on an Ayodhya Inscription' in *Ayodhya: History, Archaeology, and Tradition*, ed. Lallanji Gopal, Varanasi, 1991. Examining the palaeography of this 'inscription', Professor Pushpa Prasad has found that what is treated by the Lucknow Museum as a single inscription really consists of two largely illegible texts on two unrelated stone blocks, one of which carries a text of Gahadavala affiliation, while the other is palaeographically of Chandella provenance! (Pushpa Prasad, 'Three Recently Found Inscriptions at Ayodhya', *Proceedings*

of the Indian History Congress, 64th Session, Mysore, 2003, pp.348-50). These findings make it clear that the original 20-line inscription has been removed from the Lucknow State Museum and in its place two totally unrelated illegible blocks have been put together so as to make up twenty lines, the same number of lines on the inscription that was recorded by Fuhrer.

2.1.3. This discovery sheds new light on the possible origins of the inscription allegedly obtained from the Babri Masjid by the VHP karsevaks in December 1992. Before we proceed further we may notice certain curious facts about the VHP karsevaks' find. The alleged inscription they claim to have found on 6 December 1992 had never been previously noticed in the Mosque, so that its written side could not have been exposed, but must have faced the inside of the thick wall where it would have been pressed upon by rubble and mortar. But the inscription now passed off as the one found in the destroyed mosque bears no such signs: its face seems, indeed, mint-fresh, as if it has not come out of rubble but out of some museum. One notes immediately that it, in fact, consists of 20

lines written on a slab, which is broken vertically in the middle, and so precisely matches the description of the Treta-ka-Thakur inscription given by Fuhrer. The part on the bottom where the words for the date should have been engraved seems to have been deliberately broken off. There are thus naturally strong grounds for the suspicion that this is really the inscription found by Fuhrer, surreptitiously removed from the Lucknow Museum and paraded off as a find from the Babri Masjid. It actually gives the genealogy and history of a family of local chiefs of Ayodhya two of whom successively held the Saketa *mandala* (Saketa being the other name of Ayodhya, and *mandala* meaning district). The current lord of Ayodhya, Anayachandra is said to have constructed “the beautiful temple of Vishnu-Hari” (“the Vaishnava temple” in Fuhrer’s notice). The king whom this chief owed allegiance to is stated to be Govindachandra, who, if he is the Gahadavala ruler of this name, ruled from 1114 to 1155 (Pushpa Prasad, op.cit., p.353; her translation of the inscription is on pp.353-55, and the text on pp.355-59).

2.1.4. The inscription that had been noticed by Fuhrer, had carried, as its date the year 1241 Samvat, corresponding to AD 1184. The extant inscription allegedly found at Babri Masjid has the date portion chopped off. If this has been done to ward off suspicions about its being the same as the Fuhrer-discovered inscription, then we must infer that it had carried the same date, viz. 1241 Samvat /AD 1184. If so the 'Govindachandra' of this inscription cannot be identical with Govindachandra, the Gahadavala ruler, who reigned from 1114 to 1155, as Professor Pushpa Prasad suggests, but must be a Gahadavala prince of the same name who claimed paramountcy over this territory in 1184 as a rival to king Jayachandra. This is strongly suggested by the casual way Govindachandra is referred to in lines 15-16 in the phrase: *Govinda-chandra-kshtipala-rajya-sthairyaya*, & c., 'for the stability of Govindachandra's kingdom'. No titles of a paramount ruler are affixed to him, especially when this was an age when fantastic titles were the vogue – such as *Parambhattaraka, Maharajadhiraja, Parameshvara, Parama-maheshvara*, *Ashvapati, Gajapati, Narapati, Rajatryadhipati*

vividha vidya vichara vachaspati, which were "usually employed by the Gahadavala kings" (e.g. *Epigraphia Indica*, XIV, p.193; Pushpa Prasad, *Sanskrit Inscriptions of Delhi Sultanate*, Delhi, 1990, p.56). It is, therefore, most unlikely that the 'Govindachandra' of this inscription is the same as the earlier imperial Gahadavala ruler of that name. Rather, he seems to have been some weak Gahadavala princeling of whom Anayachandra, the local chief of Ayodhya, was a major supporter at this time.

2.1.5. It may be mentioned in passing that this inscription as read by Dr. K.V. Ramesh, himself a VHP witness before the Allahabad High Court (Lucknow Bench), makes no mention of the site of the temple being that of "[Ram]janma-bhumi", as alleged in VHP quarters, but speaks of the builder's family itself as "[*vikrama-] janmabhumi*", which, as K.V. Ramesh and Pushpa Prasad independently render it, means "the birth place of valour." In other words the temple-builder's family is acclaimed as the fountainhead of bravery. (See Pushpa Prasad, 'Three Recently Found Inscriptions at Ayodhya,' *PIHC*, 64th session, see p.353, line

16, for the translated phrase, and p.356, line 12, for the original phrase in Sanskrit).

2.1.6. Since the presumed princeling Govindachandra is not further heard of, it is possible that Ayodhya passed under the control of Jayachandra after AD 1184. A possible indicator of Jayachandra's acquisition of control over the area is a copper-plate found "near Faizabad", which contains the grant by Jayachandra (with all the grandiose Gahadavala titles) of village Kamoli or Kemoli in Asuraisha district (*pattala*), issued from Varanasi on 7 Shudi Ashadha 1243, corresponding to 14 June 1187 (F. Keilhorn, 'Two Copper Plate Grants of Jayachandra of Kanauj', *Indian Antiquary*, XV (1886), pp.6, 10-13, with text and translation). The places mentioned in the grant cannot be located, and since a copper plate could easily be removed from one place to another, its find-spot near Fyzabad (and so also near Ayodhya) is not a decisive piece of evidence; but it certainly poses the probability that by 1187 Jayachandra had been able to establish or restore his authority over Ayodhya and its vicinity.

2.1.7. The above paragraphs are extracted from Irfan Habib, 'Medieval Ayodhya (Awadh) down to the Mughal Occupation', *Proceedings of the Indian History Congress*, *67th session, 2006-07,* pp.359-61.

2.1.8. It is singular how such strong evidence in relation to the Vishnu-Hari temple inscription, of theft, manipulation and misrepresentation on the part of the VHP, is passed over in silence in the judgement, while the harshest language is used for any fancied slip or lapse, however small, on the part of the Muslim plaintiffs or any of their witnesses, as we shall see in Paper IV.

Paper III

THE ASI'S REPORT ON EXCAVATIONS

Introduction

3.1. Before it submitted its final Report to the Allahabad High Court on its excavations at the Babri Masjid site, the ASI team had submitted a succession of interim reports. We have not taken these into consideration because by the orders of the Allahabad High Court, dated 22.5.2003, these were not to be considered for "substantive evidence". Its ruling (**Para 223, sub-para (1)**) ran as follows:

> "It is only the final report that will be taken as an evidence on record which will be subject to the objection and evidence which may be led by the parties."

Thus the ASI's final report supersedes everything stated or claimed in its interim reports.

Manipulation of Stratification and Periodization

3.2. The elementary rules of excavation, as may be seen in any good textbook on Archaeology, lay down that from alterations primarily visible in soil different layers should be established as one digs (see Peter L. Drewett, *Field Archaeology — an Introduction*, Routledge, London, 1999, pp.107-08), and then the artefacts and other

material found in each of these layers are to be carefully recorded and preserved. The lower layers are older than the upper, and this sequence gives one a relative chronology of the layers. It is only through establishing dates of artefacts in different layers, by C-14 method or thermoluminiscence or inscriptions, or comparisons with artefacts already securely dated, that the periods of different layers can then be keyed to absolute time (centuries BC or AD). See Kevin Green, *Archaeology –An Introduction*, New Jersey, 1989, Chapter 3 (Excavation). The first major defect of the ASI's final Report submitted to the High Court is that it plays with periodization of the layers in the most unprofessional fashion (and with undoubted motivation), quite contrary to Justice Agarwal's commendation of their conduct (**paras 3821 to 3879**).

3.3. The ASI's Report's authors' clumsy manipulations are seen in their gross failure to provide essential data and the blatant contradictions in their period nomenclature, both of which we shall now examine.

3.4. The gross omission in the ASI's Report that we have just mentioned is the total absence of any list in which the numbered layers in each trench are assigned to the specific period as distinguished and

numbered by ASI itself during the digging. The only list available is for some trenches in the Charts placed between pages 37-38. A list or concordance of trench-layers in all trenches with Periods was essential for testing whether the ASI has correctly or even consistently assigned artefacts from certain trench layers to particular periods in its main Report. Where, as we shall see below, in connection with bones, glazed ware and other artefacts and materials, the finds can be traced to trench-layers that are expressly identified with certain Periods by the ASI in its above-mentioned charts, it can be shown that the ASI's assignment of layers to particular periods is often demonstrably wrong and made only with the object of tracing structural remains or artefacts there to an earlier time in order to bolster the theory of a Hindu temple beneath the mosque (See sub-paragraph 4 of Dr R.C. Thakran's evidence, reproduced in **Paragraph 537** of the judgement, hereafter referred to as Judgement, **Para 537**, R.C. Thakran). We will be returning to the acts of manipulation repeatedly detected in the Report when what it attributes to a trench in one place it omits in another.

3.5. As to periodization, let us consider the following:-

In Chapter III, "Stratigraphy and Chronology" the ASI Report the nomenclature for Periods V, VI and VII is given as follows (in a description extending over pages 38-41):-

Period V: "Post-Gupta-Rajput", 7th to 10th Century

Period VI: "Medieval –Sultanate", 11th-12th Century

Period VII: "Medieval", End of 12th to beginning of 16th Century

The curious inclusion of the Sultanate in layers that the ASI officials wished to date to 11th -12th centuries, is on the very face of it a display of gross ignorance since the Delhi Sultanate was only established in AD 1206, and such designation for the period 11th -12th centuries has no precedent in the annals of ASI. The purpose of this ignorant innovation clearly is to take cover under "Sultanate" in order to assign "Islamic"–period artefacts to 11th-12th centuries, when in actual fact the Gahadavala kings ruled over Ayodhya. Thereafter the term "Sultanate" is forgotten and the period made purely "Hindu" by a simple change of nomenclature in the "Summary of Results" (pp.268-9). Here the nomenclature is given as follows:-

Period V: Post-Gupta-Rajput, 7th -10th Century

Period VI: Early medieval, 11th -12th Century

Period VII: Medieval-Sultanate, 12th -16th Century

That this transference of the name “Medieval-Sultanate” from Period VI to Period VII has the advantage of ignoring Islamic-period materials like glazed ware or lime-mortar bonding by removing them arbitrarily from Period VI levels to those of Period VII so that their actual presence in those levels need not embarrass the ASI when it sets forth its thesis of the construction in Period VI of an alleged “massive” or “huge” temple. The device is nothing but manipulation and the so-called single “correction” of nomenclature of Period VI, much after the Report had been submitted to the Court, constitutes simple admission of the manipulation.

3.6. Justice Agarwal gives no concession to the critics of the ASI’s erroneous periodization, “which would ultimately may (*sic*) result in rejection of the entire report itself” (**Para 3846**). So without coming anywhere to grips with the issue of ASI’s simultaneous application of the designation ‘Medieval-Sultanate’ to two different sets of centuries (11^{th}-12^{th} centuries in one portion and 12^{th} -16^{th} centuries in another), Justice Agarwal declares that he found “no reason whatsoever in the above background to hold periodisation [which one?] determined by ASI as mistaken” **(Para 3878)**

3.7. Justice Agarwal thought he had not said enough about critics of ASI's scheme of periodization and so in **Para 3879** he takes them further to task: They should know that ASI officials "are experts of expert (sic!)." Then Justice Agarwal offers this opinion of the ASI's critics in the same **Para 3879**:

> "The result of a work if not chewable(!) to one or more, will not make the quality of work impure or suspicious. The self-contradictory statement [whose?], inconsistent with other experts made against ASI of same party, i.e. Muslim extra interest, and also the fact that they are virtually hired experts, reduces trustworthiness of these experts despite of (*sic*!) their otherwise competence."

3.8. Let us not here worry, however, about Justice Sudhir Agarwal's opinion of ASI's critics, or about the difference between "hired" and "virtually hired" experts. Let us keep our eyes on the way in which the entire stratigraphy has been manipulated by the ASI, and certain layers obviously of Islamic provenance pressed into pre-Muslim periods (Period VI and earlier) as shown in Annexure No.1, Table 2, attached to the objection of Mr. Hashim dated 8.10.2003 (**Para 3821**). This kind of false stratigraphy has led to situations that are impossible in correctly stratified layers, namely, the presence of

later materials in earlier strata. The presence of earlier materials in later or upper layers is possible, but not the reverse except for pits, but these have to be demarcated clearly from the regular layers, as the digging takes place (and not later as an afterthought), which has not been done at all. Obviously the entire stratigraphy has been frequently played with by the ASI to invent a temple in "Post-Gupta-Rajput" times.

The above facts were duly brought to the notice of the Court, *vide* **Para 537:** R.C. Thakran, sub-paras 10, 11 and 12.

Structural Remains beneath the Mosque

3.9. While digging up the Babri Masjid, the excavators claim to have found four floors, numbered, upper to lower, as Nos.1, 2, 3 and 4, Floor No.4 being the lowest and so the oldest. In Chapter III of the ASI's Report Floor 3 is put in "Medieval Period" (i.e. 13th-16th century by categorization adopted in this Chapter. It is stated to consist of "a floor of lime mixed with fine clay and brick-crush" (p.41) — in other words a purely *surkhi* of standard 'Muslim' style (see below the sub-section on Lime and Surkhi Mortars). Floor 4, placed in the "Medieval-Sultanate Period", has also a "red-brick crush floor" (p.40), which too can come only from use of *surkhi.* The word "Sultanate" is apparently employed to explain away the use of *surkhi*. Floors 3 and 4

are obviously the floors of an earlier *qanati* Mosque/ Eidgah since a *mihrab* and *taqs* (niches) were also found in the associated foundation wall (not, of course, identified as such in the ASI's report). Such a floor, totally Muslim on grounds of technique and practice, is turned by the ASI into an alleged temple floor, "over which", in its words, "a column-based structure was built". Not a single example is offered by the ASI of any temple of pre-Mughal times having such a lime-surkhi floor, though one would think that this is an essential requirement when a purely Muslim structure is sought to be represented by the ASI as a Hindu one.

3.10. Once this arbitrary appropriation has occurred (page 41), we are then asked by the ASI's report to imagine a "Massive Structure Below the Disputed Structure", the massive structure being an alleged temple. It is supposed to have stood upon as many as 50 pillars, and by fanciful drawings (Figure 23, 23A and 23B) in the ASI's Report, it has been "reconstructed", Figure 23B showing the reconstructed temple with 50 imaginary pillars! Now, according to the ASI's Report, this massive structure with "bases" of 46 of its alleged 50 pillars allegedly exposed, was built in Period VII, the period of the Delhi Sultans, Sharqi rulers and Lodi Sultans (1206-1526): This attribution of the

Grand temple, to the “Muslim” period is not by choice, but because of the presence of “Muslim” style materials and techniques all through. This, given the ASI officials’ peculiar view of medieval Indian history (apparently shared by Justice S. Agarwal), when intolerance is supposed to have reigned supreme, may have further induced them to imagine yet another structure below assignable to an earlier time. About this structure, however, it is admitted in the Summary of Results that “only four of the [imagined] fifty pillars exposed during the excavation belonged to this level with a brick-crush floor” (ASI Report, Chapter X, p.269), and it is astonishing that this should be sufficient to ascribe them to 10^{th} – 11^{th} century (the “Sultanate” tag of Chapter III for it, now forgotten) and to assume that all the four pillars belong to this structure. That structure is proclaimed as “huge”, extending to nearly 50 metres that separate the alleged “pillar-bases” at the extremes. If four “pillar bases” with their imaginary pillars were called upon to hold such a vast roof, it is not surprising that the resulting structure was, as the ASI admits, “short-lived.”

3.11. Furthermore the four alleged pillar bases dated to 11^{th} -12^{th} centuries are said “to belong to this level with a brick crush floor”. This amounts to a totally unsubstantiated assumption that surkhi was

used in the region in Gahadavala times (11^{th} - 12^{th} centuries). No examples of such use of surkhi in Gahadavala period sites are offered. One would have thought that Sravasti (District Bahraich), from which the ASI team has produced a linga-centred Shaivite “circular shrine” of the Gahadavala period for comparison with the so-called “circular shrine” at the Babri Masjid site, or, again, the Dharmachakrajina vihara of Kumaradevi at Sarnath, another Gahadavala site of early 12^{th} century AD, which the Report cites on other matters (e.g. on p.56), would be able to supply at least one example of either surkhi or lime mortar. But such has not at all been the case. One can see now why it had been necessary in the main text of the Report to call this period (period VI) “Medieval-Sultanate” (p.40): By clubbing together the Gahadavala with the Sultanate, the surkhi is sought to be explained away; but if so, the alleged “huge” structure too must come to a time after 1206, for the Delhi Sultanate was only established in that year. And so, to go by ASI’s reasoning, the earlier allegedly “huge” temple too must have been built when the Sultans ruled!

3.12. The way the ASI has distorted evidence to suit its “temple theory” is shown by its treatment of the *mihrab* (arched recess) and *taqs* (niches) found in the western wall (running north-south), which it

turns into features of its imagined temple. On p.68 of the ASI's Report are described two niches in the inner side of Wall 16 at an interval of 4.60 metres in trenches E6 and E7. These were 0.20 metre deep and I metre wide. A similar niche was found in Trench ZE2 in the northern area and these have been attributed to the first phase of construction of the so-called 'massive structure' associated with Wall 16. Such niches, along the inner face of the western wall, are again characteristic of Mosque / Eidgah construction. Moreover, the inner walls of the niche are also plastered (as in Plate 49 of the ASI's Report) which indicated that the plaster was meant to be visible. A temple niche, if found, would in any case have to be on the outer wall, and if it contained an image the plaster would be on the image, not the nihce's interior. In the first phase of construction, the supposed massive structure was confined to the thin wall found in Trenches ZE1-ZH1 in the north and E6-H5/H6 in the south (p. 41). How then does one explain the location of niches outside the floor area of the massive structure? This is typical of a mosque/ eidgah, which would have a long, wide north-south wall, the *qibla* being in the western direction, with niches at intervals on its inner face and there may be a small covered area in the centre, which

would have narrow demarcating walls. The ASI is able to produce no example of a similar recess and niches from any temple.

3.12A. The context and positions of the recess and niches show that these could only have belonged to a Muslim mosque or eidgah. The argument advanced by the "Hindu parties" has been that the niche (*taq*) and *mihrab* (recessed false-doorway) in mosques are invariably arched, and here the niche at least is rectangular and so must belong to a temple (**Para 3991**, VHP Counsel: sub-paras XXXIV to XXXVIII). But if we look at Fuhrer's *Sharqi Architecture of Jaunpur* (a book submitted to the Court) we find in its Plate XXVII ('Jaunpur: Interior of the Lal Darwaza Masjid'), a refutation of this facile assumption. The niche (*taq*) close to the *mimbar* on the right is *rectangular*, while the *mihrab* to the left, on the other side of the *mimbar*, is basically rectangular (flat-roofed) with the arches above being only ornamental. The VHP advocate's claim that the floor of the *mihrab* is always at the same level as the main floor (**Para 3991:** VHP Counsel, sub-para XXXVIII) is a ridiculous one, as may be seen from the illustration of *mihrabs* in the Jaunpur Jami Masjid (Fuhrer, op.cit., Plates LXIII and LXIV), where the floor of the *mihrab* stands, in one case, two courses and, in the other, one course above the main floor. See also Fuhrer's

text, p.47, for how the *mihrab* is always placed ‘towards Makka’, i.e. to the west. The evidence from the 15th-century Lal Darwaza Masjid is crucially relevant since the Babri Masjid in its design closely followed the style of Sharqi-period (15th-century) mosques of Jaunpur.

3.13. Now let us see the way in which Justice Agarwal in **Para 3928** dismisses all the objections to the attribution of remains of the walls and floors, found under the extant floor of the Babri Masjid, to an imagined temple:-

> “The statements of Experts (Archaeologist) (*sic!*) of plaintiffs (Suit-4) in respect of walls and floors have already been referred to in brief saying that there is no substantial objection except that the opinion ought to [be?] this or that, but that is also with the caution that this can be dealt with in this way or that both and not in a certain way.”

This presumably means that no precise objections of the Muslim Plaintiffs (Suit-4) need be considered!

3.14. Here, a further point has to be made about the use of scientific dating methods. It is to be noted that the ASI made no use of thermoluminiscence (TL) dating, although this should have been used where so much pottery was involved; and in the case of TL, unlike

most carbon-dates obtained from charcoal, the artefacts in the form of fired pottery can be directly dated. Yet only carbon-dating was resorted to, and no explanation is offered why the TL-method was not also employed. Clearly, it was feared that the TL dates for glazed ware would upset the apple-cart of ASI's stratification and periodisation.

3.15. On p.69 of the ASI Report we are told:

> "The available C-14 dates (sic!) from the deposit between floors 2 and 3 in the trench ZH-1 is 1040±70BP (910±70 AD) having the calibrated age range of AD 900-1030. The early date may be because of the filling for leveling the ground after digging the earth from the previous deposit in the vicinity."

So in the words of ASI officials themselves this carbon date (from BS No.2124) is valueless for determining the period of Floor 2-3 interval. But what about the other carbon date or dates, for the word "dates" in the quoted passage implies that there was more than one carbon date obtained for the Floors 2-3 interval. In the statement of Carbon Dates (Appendix I) there are only two other dates bearing a calibrated date in AD. But since one of these two dates, that from sample BS 2123, dated to CAL AD 90-340 came from a depth of 265-270 cms whereas the carbon-date sample yielding AD 900-1030 (BS No.2124) came from a

depth of 50 cm only, this is out of the question here. There then remains only sample BS No.2127, whose depth is only 3 cm less than that of BS No.2124, being 47 cm). Its carbon–date is AD 1500 (±110), and its calibrated date has a range of AD 1400-1620. Why should not this be used to date the Floor 2-3 interval?

3.16. Since the entire basis of the supposed “huge” and “massive” temple-structures preceding the demolished mosque lies in the ASI’s reliance upon its alleged numerous **“pillar bases”**, these have now to be examined. In this respect one must first remember that what are said by the ASI to be pillar bases are in many cases only one or more calcrete stones resting on brick-bats, just heaped up, and ASI admits that only mud was used as mortar to bond the brickbats. (One should not be led astray by a highly selective few “pillar bases” whose photographs appear in ASI’s volume of illustrative Plates). In many claimed “pillar bases” the calcrete stones are not found at all. As one can see from the descriptive table on pages 56-67 of the Report not a single one of these supposed “pillar bases” has been found in association with any pillar or even a fragment of it; and it has not been claimed that there are any marks or indentations or hollows on any of the calcrete stones to show that any pillar had rested on them. The ASI

Report nowhere attempts to answer the questions (1) why brickbats and not bricks were used at the base; and (2) how mud-bonded brick-bats could have possibly withstood the weight of roof-supporting pillars without themselves falling apart. It also offers not a single example of any medieval temple where pillars stood on such brick-bat bases.

3.17. In Paras **3901 to 3906** Justice Agarwal reproduces statements and arguments advanced by Sri M.M. Pandey, though these include statements that are not even made in the ASI Report on a general basis at all, such as (a) “brickbats in the pillar bases are not heaped up but are carefully laid in well-defined courses” (**Para 3901***)*; (b) “the foundation of pillar bases has been filled with brickbats covered with orthostat, which prima facie establishes its (*sic*) load-bearing nature” (**Para 3903**), and (c) “all the fifty bases, *more or less are* of similar pattern except the orthostate (sic) position.” (**Para 3903**) These words of wild generalization, quite overlooking the brickbat heaps passed off as pillar bases by the ASI, and the technological wisdom about highly dubious ‘orthostats’ are, to put it in the mildest of terms, highly controversial. Yet Justice Agarwal, in **Para 3907** says shortly: “We find substance in the submission (*sic*!) of Sri Pandey.”

3.18. Despite the claim of these pillar bases being in alignment and their being so shown in fancy drawings in the ASI's Report (figures 23, 23A and 23B), the claim is not borne out by the actual measurements and distances; and there is indeed much doubt whether the plan provided by ASI is drawn accurately at all. The fact that the alleged pillar bases do not stand in correct alignment or equal distances is admitted by Justice Agarwal in **Para 3917,** but he speculates on his own that "there may be a reason for having variation in the measurement of pillar bases that the actual centre of the pillar bases could not be pointed out …." The ASI admitted to no such disability. Moreover, the Justice goes on to state that "Figure 3A in any case has been confirmed by most of the Experts (Archaeologist) (*sic!*) of plaintiffs (suit-4)," when actually it has been held by them to contain inaccurate and fanciful details. Indeed, there are enormous discrepancies between Fig. 3A (the main plan) and the Table in Chapter 4 on the one hand, and the Report's Appendix IV, on the other. Trench F7 has four alleged "pillar bases" in the former, for example; but only one in the latter!

3.19. In fact the way the ASI has identified or created "pillar bases" is a matter of serious concern. Complaints were also made to

the Observers appointed by the High Court that the ASI officials were ignoring calcrete-topped brick-bat heaps where these were not found in appropriate positions, selecting only such brick-bat heaps as were not too far off from its imaginary grids, and helping to create the alleged "bases" by clearing the rest of the floor of brick-bats. Despite Justice Agarwal's vehement rejection of these complaints (not so summarily rejected, however, by the Bench to which they were made), the complaints do not lose their validity. (See Paper IV for relevant particulars).

3.20. The most astonishing thing that the ASI so casually brushes aside relates to the varying levels at which the so-called "pillar bases" stand. Even if we go by the ASI's own descriptive table (page 56-57), as many as seven of these alleged 50 "bases" are definitely *above* Floor 2, and one is at level with it. At least six rest on Floor 3, and one rests partly on Floor 3 and 4. Since Floor 1 belongs to the mosque, how did it come about that as many as seven pillars were erected, after the Mosque had been built, in order apparently to sustain an alleged earlier temple structure! More, as many as nine alleged "pillar bases" are shown as cutting through Floor No.3. Should we then not understand that when the Mosque floor was laid out, there

were no "pillar bases" at all, but either extant parts of earlier floors (now taken to be or made to look like pillar bases) or some kind of loosely-bonded brickbat deposits, connected with the floors?

3.21. It may be added that even the table on pages 56-67 of the ASI's Report may not correctly represent the layers of the pillar bases, since its information on floors does not match that of the Report's Appendix IV, which in several trenches does not attest the existence of Floor No. 4 at all, though this was the floor the "pillar bases" in many cases are supposed to have been sealed by, or to have cut through or stand on ! For example, "pillar base 22" on pp.60-61 is indicated as resting on floor 4, but there is no Floor 4 shown as existing in Appendix IV of the Report in Trench F2 where this base supposedly stands. Similar other discrepancies are listed below:

Information in text of ASI's Report (PB = Pillar base)	**Information in Appendix 4 of Report**
PB No.3:ZG2-Fl. 2 (p.56)	Only Fl.1 mentioned (p.8)
PB No.6:ZJ2-Fl. 2(p.57)	Fl.1 mentioned (p.12)
PB No.8:ZG1-Fl. 2 (p.58)	Only Fl.1 mentioned (p.8)
PB No.18:H1-Fl.4 (p.60)	No Fl.4 (p.11)
PB No.22:F2-Fl.4 (p.60-61)	No Fl.4 (p.6)
PB No.27:H5-Fl. 4 (p.62)	3 successive floors. No Fl.4 (p.11)
PB No.28: F6-Fl.4 (p.62)	No Fl.4 (p.7)

PB No.31:F6-F7-Fl. 4 (p.63)	3 floors mentioned for F6 (p.7); Floors 1 and 1A for F7 (p.7)
PB No.32: F6/F7-Fl. 4 (p.63)	3 floors mentioned for F6 (p.7); Floors 1 and 1A for F7 (p.7)
PB No.34, 35: F7-Fl. 4 (p.64)	Only F1.1 and 1A (p.7)
PB No.36:G7-Fl. 4 (p.64)	No Fl.4 (p.10)
PB No.37: F8-Fl.3 (p.65); no.Fl.3 beyond 6 series (p.63)	–
PB No.39: G8-Fl. 4 (p.65)	3 successive floors (p.10)
PB No.45: G9-Fl. 4 (p.66)	3 successive floors (p.10)
PB No.44: F9-Fl. 4 (p.66)	2 floors mentioned (p.8)
PB No.46:H9-Fl. 4 (p.66)	3 floors (p.12)
PB No.47:F10/F10-Fl 4 (p.66)	E10:Fl.1 mentioned (p.5); F10: 2 floors mentioned (p.8)
PB No.48:F10-Fl. 4 (p.67)	2 floors mentioned (p.8)
PB No.49: G10-Fl. 4 (p.67)	2 floors mentioned (p.10)
PB No.49:G10/H10-Fl.4 (p.67)	2 floors each in G10 and H10 (pp.10,12)
PB No.50: H10-Fl. 4 (p.67)	Floors 1 and 2 only mentioned (p.12)

Note: Fl. in the above table is an abbreviation for Floor.

Thus in over 20 cases Floor 4 is presumed in the Report, whereas no proof of this is provided in Appendix IV. See **Para 537:** R.C. Thakran, sub-paras 16-20.

3.22. There is also the crucial matter of what happened to the pillars that the alleged pillar-bases carried. Justice Agarwal dismisses this as unworthy of consideration since, in his view, they must have been demolished when the supposed temple was destroyed to build the mosque (**para 3917**). He says:

> "One of the objection (*sic!*) with respect to the pillar bases is that nothing has been found intact with them saying (!) that the pillars were affixed thereon. The submission, in our view [is?] thoroughly hollow and an attempt in vain (*sic!*) … If we assume other cause (*sic!*) to be correct for a moment, in case of demolition of a construction it is a kind of childish expectation to hope that some overt structure as it is would remain intact."

The real question is here by-passed: no one is asserting that pillars should have been found standing erect, but they should have been found in recognisable fragments. The simple fact is that destruction does not mean evaporation. If the mosque was built immediately upon the alleged temple's destruction, as Justice Agarwal holds, then, the 50 stone pillars would have been used in the mosque, and their remains should have been found in the debris of the demolished mosque which the ASI dug through. *But no such pillar, or any recognizable part thereof, was found*. Only one pillar fragment was found and that

belonged to the set of 14 non-uniform decorative non-load bearing black basalt pillars which were part of the Babri Masjid structure (On these see R.S. Sharma, M. Athar Ali, D.N. Jha, and Suraj Bhan, *Ramjanmabhumi and Baburi Masjid*, People's Publishing House, New Delhi, 1991, pp.8-10).

3.23. The ASI should surely, therefore, have looked about for other explanations of the heaps of brickbats before jumping to its "pillar bases" theory. There is at least one clear and elegant explanation for many of them, first proposed by Dr Ashok Datta (**Para 540** sub-para 10). When Floor No.4 was being laid out over the mound sometimes during the Sultanate period, its builders must have had to level the mound properly, using stones (the latter often joined with lime mortar) and brick-bats to fill such holes. When Floor 4 went our of repair, it received similar deposits of brickbats to fill its holes in order to lay out Floor 3 (or, indeed, just to have a level surface), and this continued to happen with the successive floors. This explains why the so-called "pillar bases" appear to "cut through" both Floors 3 and 4, at some places, while at others they "cut through" Floor 3 or Floor 4 only. They are mere deposits to fill up holes in the floors. Since such repairs were in time needed at various spots all over the floors, these

brickbat deposits are widely dispersed. Had not the ASI been so struck by the necessity of finding "pillar bases", which had to be in some alignment, it could have found scattered over the ground not just fifty but perhaps over a hundred or more such deposits of brickbats. A real embarrassment of riches of false "pillar bases", that is!

3.24. It may here be pointed out that when Dr. B.R. Mani the first leader of the ASI team at Ayodhya, excavated at Lal Kot, District of South New Delhi, he thus describes "pillar bases" of "Rajput style", of about 11th-12th century:

> "These pillar bases rest on stone pedestals and are 2.90 m. apart from each other. They might have supported some wooden canopy."
> (*Indian Archaeology, 1992-93 – A Review*, official publication of ASI, New Delhi, 1997, p.9).

Dr. Mani illustrates these four pillar bases in Plates VI and VII of the same publication. Each comprises a number of squarish stone slabs resting on each other with a larger stone slab at the bottom. Yet these were not thought by him to be strong enough to support anything more that "a wooden canopy." And yet at Ayodhya, single calcrete slabs resting on nothing more than brickbats are often held by the same Mr.

Mani and his team to have supported stone pillars bearing "massive stone structures!" (See also Paragraph 3.58 below.)

3.25. Having thus shown that there is no basis for the ASI's illusory 50-pillared structure, and without at all conceding the reality of the claimed 50 pillar bases, it is still pertinent to ask why the ASI regards colonnades to have necessarily been part of a temple, and of no other structure. In this respect the ASI should have noticed such pillared structures of the Begumpuri Mosque, the Kali Masjid and the Khirki Masjid, all built at Delhi by Khan Jahan Firozshahi in the AD 1380's the original photograph of which are printed in Tatsuro Yamamoto, Matsuo Ara and Tokifusa Tsokinowa, *Delhi: Architectural Remains of the Delhi Sultanate Period*, Tokyo, 1967, Vol.I, Plates 14b, 18c and 20c. What of Delhi, the ASI could have looked closer at the 15th-century mosques at Jaunpur, viz. the Lal Darwaza Masjid and Jami Masjid, described by A. Fuhrer in his *Sharqi Architecture of Jaunpur*, Calcutta, 1889, the account of Lal Darwaza Masjid being given on pp.43-51, and the Jami Masjid on pp.52-58. Both mosques have long colonnades, with dozens of pillars carrying roofs on the trabeate (not arcuate) principle. The Lal Darwaza Masjid plan (Plate XXVIII in Fuhrer's volume) shows about 150 such pillars in Lal

Darwaza Masjid; and Plates XXIX and XXX give good views of the Masjid's colonnades. The Jami Masjid had equally numerous pillars of a similar kind but there has been much damage to the building. Still even the extant remains give us an idea of its grand colonnades (Fuhrer's Plates XLIV, L and LI). It is astonishing that the ASI should have closed its eyes to such structures; but this is just another proof that its Report is a simple product of bias and partisanship.

However, this point is raised merely incidentally just to illustrate the degree of bias and non-professionalism in the ASI's approach. There, in fact, exist no real pillar-bases to sustain any vision of pillared halls or grand colonnades, either of temple or mosque.

3.26. One of the assumptions in Justice Agarwal's censures of the experts on the Muslim side has been that they have denied the existence of *all* pillars and pillar-bases. The Babri Masjid also used quite large pillars to carry the roof, and as we have shown pillars and colonnades were a feature of the Sharqi mosques. Thus Justice Agarwal's contention that *all* pillar-bases of whatever kind and those especially in the north are being rejected by critics of the ASI Report and, then, to discredit them on that basis (cf. **Paras 3887 and 3890**) is based on an incorrect inference. Nor is there any ground for the

assertion that there was any suggestion on part of the critics regarding a "north-south row of the wall 16 and 17", i.e. west of the Mosque's western wall **(Para 3895).** It is, therefore, all the more unfortunate that in **Para 3900,** Justice Agarwal deals with the proper objections raised by Dr Jaya Menon and Dr Supriya Verma, in the following manner:

> "… it can easily be appreciated that the mind of two experts instead [of?] working for the assistance of the Court in finding a (*sic!*) truth, tried to create a background alibi so that later on the same may be utilized to attack the very findings. However, this attempt has not gone well since some of these very pillar bases have been admitted by one or the other expert of plaintiffs (Suit-4) to be correct."

All buildings including the Babri Masjid and its predecessor, the qanati mosque or eidgah, needed to stand on walls and pillars, and it is naturally inconceivable that the concerned plaintiffs' experts would deny the existence of such structures, as if mosques cannot contain pillars, or their roofs only stand on walls!

The Circular Shrine

3.27. Much is made in the ASI Report of the "Circular Shrine" (Report, pages 70-71), again with fanciful figured interpretations of the

existing debris (Figs. 24 and 24A in the Report). Comparisons with circular Shaivite and Vaishnavite Shrines (Fig. 18) are made. The ASI had no thought, of course, of comparing it with circular walls and buildings of Muslim construction – a very suggestive omission. Such shapes are indeed fairly popular in walls of medieval Muslim construction. And then there are Muslim-built domed circular structures such as the circular corner structures at the 13th century tomb of Sultan Ghari at Delhi, (See *Ancient India*, official publication of ASI, No.3 (1947), Pl.VIII-A).

3.28. Even if we forget the curiously one-eyed nature of ASI's investigations, let us consider the shape and size of the alleged "shrine". The extant wall makes only a little more than a quarter of a circle (ASI Report, Fig.17). Though there is no reason to complete the circle as the ASI does, the circular shrine, given the scale of the Plan (Figure 17 in the Report), would still have an internal diameter of just 160 cms. or barely 5 ½ feet! Such a small structure can hardly be a shrine. But it is, in fact, much smaller. Figs.3 (General Plan of Excavations) and 17 in the Report show that not a circle but an ellipse would have had to be made by the enclosing wall, which it has to be in order to enclose the masonry floor. No "elliptic (Hindu) shrine" is,

however, produced by ASI for comparison: the few that are shown are all circular. As Plate 59 makes clear the drawing in Fig. 17 ignores a course of bricks which juts out to suggest a true circle, much shorter than the elliptic one: this would reduce the internal diameter to less than 130 cms, or 4.3 feet ! Finally, as admitted by the ASI itself, nothing has been found in the structure in the way of image or sacred artefact that can justify it being called a “shrine”.

3.29. Indeed, if the ASI insists on it being a shrine, it is strange that it did not consider the relevance of a Buddhist Stupa here. Attention was drawn to Plate XLV-A showing “exposed votive stupas” at Sravasti, in the ASI’s own *Indian Archaeology, 1988-89 – A Review*. It is indicative of the ASI’s bias that while it provided an example of an alleged circular Shaivite shrine from Sravasti, along with a photograph (Report’s Plate 61), it totally overlooks the circular structures representing stupas there. As shown above the small size of the so called “circular shrine” at the Babri masjid site precludes it from being a shrine which anyone could enter, and the votive *stupa* (which is not entered) is the only possible candidate for it, if the structure has to be a pre-Muslim sacred structure. But the stupa is not a temple, let alone a Hindu temple. (See **para 537:** R.C. Thakran, sub-paras 24-26).

It is characteristic that despite no "circular shrine" of this small size being brought to the attention of the court, Justice Agarwal gives his own reasons, citing, however, no example or authority, to say that there could be a circular shrine which need not be entered! (**Para 3947**).

3.30. We now come to Justice Sudhir Agarwal's own reading of the evidence. We have seen above that the ASI on p.69 refers to a sample from "the deposit between Floors 2 and 3 in the Trench ZH-1", giving the date AD 1040± calibrated to AD 900-1030, which it itself rejected as "too early", the sample being held to be a possible intrusion from disturbed soils. Justice Agarwal in **Para 3937**, however, uses this reference to date the "Circular Shrine", which has no relationship to Trench ZH-1 (situated far on the northern side of the Masjid) or Floors 2 and 3. He says:

> "The structure [the alleged Circular Shrine] may be dated to 9th -10th century. (the ASI carried out C-14 determination from this level (!) and the calibrated date ranges between 900 AD 1030 AD)."

The words in round brackets are, of course, those of Justice Agarwal, and shows he here uses a carbon-date which could be from disturbed strata according to the ASI itself and has nothing to do with the so-

called circular shrine. He might also have considered the other sample (BS No.2127) from a similar depth (47 cm), but from a trench G7 adjacent to the “circular shrine”, which gives the calibrated range of AD 1400-1620. This date should make it a presumably “Islamic” structure!

3.31. Before we close this discussion on the “Circular Shrine”, let us come to the *parnala*, which Justice Agarwal pronounces to be the decisive evidence (“an extremely important feature of this structure” — **Para 3936).** The basic claim with regard to this supposed water outlet is in the ASI’s Report, page 70:-

> “The structure was squarish from the inner side and a 0.04 m. wide and 0.53 m. long chute or outlet was noticed on plan made through the northern wall upto the end where in the lower course a 5.0 cm. thick cut in ‘V’ shape was fixed which was found broken and which projects 3.5 cm. outside the circular outer face as a *parnala* to drain out the water, obviously after the *abhisheka* of the deity, which is not present in the shrine now.”

In **Paragraph 3929** Justice Agarwal reproduces the “serious” objection made to the circular shrine, in which in sub-para 6.10 it is pointed out that the channel cannot be a draining chute at all not only

because of its Lilliputian proportions, but also because it is uneven in width, and narrow at the end (see Plate No.60 in the ASI's volume of illustrations); measurements by a levelling instrument revealed it had no slope, and, finally, there were no residues or traces of deposits that are formed within water drains after a period of use.

3.32. Not only does Justice Agarwal not take any notice of these objections, but in **Paragraph 3937** considers the 'v' cut in a brick as a "gargoyle". A "gargoyle" implies that there is a "grotesque spout, usually with human or animal mouth, head or body, projecting from gutter of (especially Gothic) building to carry water" (*Concise Oxford Dictionary*). No such sculptured figure is found, so that this possible support for a "shrine" here is also absent.

Bones, Artefacts and Materials and Their Significance

3.33. Now we proceed to examine the archaeological finds that go entirely against the thesis of there having been a temple beneath the mosque.

3.34. The most sensational act of misconduct of the ASI officials has been that despite their being reminded by the Bench of the need to preserve and record **animal bones** properly, they failed to do so.

3.35. The bones of large and medium size animals (cattle, sheep and goats) would be a sure sign of animals being eaten or thrown away dead at the site, and, therefore, rule out a temple existing at the site at that time. In this respect directions were given by the High Court to the ASI to record "the number and wherever possible size of bones and glazed wares". (Order, 10.4.2003, reproduced in **Para 230).** Yet the ASI officials have provided in their Report no chapter or sub-chapter or even tabulation of animals by species, by kinds of bones, whether with cut-marks or not, as is required in any proper professional report of excavation. In fact today, much greater importance is being attached to study of animal bones since they provide to archaeologists information about people's diet and animal domestication (cf. Kevin Greene, *Archaeology: an Introduction*, pp.136-37). From any point of view ASI's avoidance of presenting animal-bone evidence after excavation must be regarded as a motivated, unprofessional act. The Report in its "Summary of Results" admits that "animal bones have been recovered from various levels of different periods" (Report, p.270). Where did the unnamed author(s) of this chapter get this information when there is nothing about animal bones in the main Report? There is much room for the suspicion, then, that there *was* a

chapter or sub-chapter on the animal bones in the Report, on which the writer of the Summary of Results drew, but it has been suppressed or deleted because of its dangerous implications. It is characteristic of Justice Agarwal's partisan attitude that he does not anywhere take the ASI to task for this, but actually, as will presently be shown, makes use of the omission of details about animal bones in the ASI's Report to author imaginary explanations of where the bones were found and hold forth on what their presence implies.

3.36. Let us, however, first take the statement actually made in the "Summary of Results", which we have just quoted. It concedes specifically that animal bones have been recovered from "various levels". Here, then, it is not a matter of recovery from "pits" that Sri M.M. Pandey and, following him Justice Agarwal enlarge on at length (**Paras 3966 and 3968**). Furthermore "various" in the context means "all", particularly since the ASI Report provides no reservation that there was any area or layers in which the bones were not found. Indeed, the above inference is fully supported from even a random examination of the ASI's Day-to-Day Register and Antiquities Register, where the bones recovered are not usually attributed to pits or 'secondary deposits'. This can be confirmed from D. Mandal's

tabulation of animal bones in D. Mandal and S. Ratnagar, *Ayodhya: Archaeology after Excavation*, Delhi, 2007, pp.65-66. So where did Sri M.M. Pandey (an advocate, not a witness subject to cross-examination) and Justice Agarwal draw their information from?

3.37. Indeed, from the Day-to-Day and Antiquities Registers, we find that in Trenches Nos.E-6 (Layer 4), E-7 (Layer 4), F-4/F-5 (Layer 4) animal bones have been found well below Period VII – layers, i.e. in Period VI (Early Medieval or Pre-Sultanate) or still earlier, and in Trenches Nos.F-8, G-2, J-2/J-3, they are found in Layers assigned by ASI to Period VI itself. Thus bones have been found in what are allegedly central precincts of the alleged Rama temple allegedly built in 'Period VI'. The ASI says that a massive temple was built again in Period VII, but in Trenches Nos.E6, F8, G-2 and J-E/J-4 bones have been found in layers assigned to this very Period also in the same central precincts. The above data are given in the Tables produced in Sunni Central Board of Waqfs (UP)'s 'Additional Objection' dated on 3-2-04.

3.38. Justice Agarwal in **Para 3969** enters the following explanation of the presence of the bones:

> "Moreover, it is a well-known fact that in certain Hindu temples animal sacrifices are made and flesh is eaten as Prasad while bones are deposited below the floor at the site."

He cites no authority for this. Is there a single temple of this type at Ayodhya today?

3.39. Let us, then, look at least at one authority for such sacrifices. According to Abbe J. Dubois, *Hindu Manners, Customs and Ceremonies* translated by Henry K. Beauchamp, with Preface by Professor Max Muller, 3rd ed., Oxford, 1906, p.647, the *Kali Purana* "contains rules of procedure in sacrificing animals, and mentions the kinds and qualities of those which are suitable as victims. Lastly, it specifies those deities to whom these bloody offerings are acceptable. Among them are Bhairava, Yama, Nandi and above all the bloodthirsty goddess Kali."

Two points here are worth noting: (a) the divinities to whom the sacrifices are offered are all connected with Lord Shiva, except Yama, god of the dead; on the other hand, Lord Vishnu or any of his incarnations are in no way connected with the rites; and (b) there is nothing said of the worshippers eating the flesh of the sacrificial victims. So far as we know there was no or little prevalence of the Kali

cult in the Upper Gangetic basin where Ayodhya is situated. In any case, if one insists on the imaginary temple beneath the Babri Masjid to have contained thrown away animal bones, it would make it not a Rama, but a Kali or Bhairava temple. Yet even so the sacrificed animals' whole skeletons should have been found, not separate, scattered animal bones, as were actually found in the excavations, according to the ASI's own records.

3.40. One may here respectfully draw attention to the lack of consistency in Justice Agarwal's implying in paragraph **3969**, that the huge imaginary temple beneath the Babri Masjid was a Kali or Bhairava temple revelling in animal sacrifices, and, on the other, deciding **(Para 4070)** under issue No.14 that the Hindus have been "worshipping the place in dispute as Sri Ram Janam Bhumi Janam Asthan… since times immemorial"!

3.41. Justice Agarwal furthermore declares in **Para 3970** that "bones in such abundance" precluded the site from ever having been an eidgah or qanati mosque before the Babri Masjid was built. Here it must be mentioned that it is his own finding, not that of the "Muslim" plaintiffs, that the Babri Masjid was built immediately upon the demolition of a preceding structure. Quite the contrary, the bones and

the scattered medieval artefacts like glazed ware, show that the land adjacent to the walls and main structure remained open, as would be the case with an eidgah or qanati mosque, so that waste matter could be thrown there. During the period of three centuries preceding 1528, Ayodhya or Awadh was a city with a large Muslim population along with its Hindu inhabitants (see for such evidence, Irfan Habib, 'Medieval Ayodhya (Awadh) down to Mughal Occupation', *Proceedings of the Indian History Congress*, 67th session (Calicut University, 2006-07), Delhi, 2007, pp.358-382). Given the dietary customs of the two communities "abundance of animal bones" would weigh heavily in favour of there being a Muslim presence in the immediate vicinity of the disputed site.

3.42. **Glazed ware**, often called "Muslim" or Medieval **glazed ware**, constitutes an equally definite piece of evidence, which militates against the presence of a temple, since such glazed ware was not at all used in temples.

3.43. Before we go further, it is best to remove what was drawn apparently as a red herring, but which unfortunately has been accepted by Justice Agarwal (**Para 3976)** — the claim that, after all, there was "glazed ware" also in Kushana times, so why not in Gahadavala times?

The matter is clarified in the authoritative *Encyclopaedia of Indian Archaeology,* ed. A. Ghosh (former Director-General, Archaeological Survey of India), New Delhi, 1989, page 260, where we read under GLAZED WARE:-

> “Potsherds, light buff in colour, with a heavy turquoise blue glaze, have been found at Chaubara and Mahauli mounds near Mathura and at several other sites in the country and have been dated to the Kushan period. However, it bears no similarity to the reddish buff Kushan ware which abounds around Mathura and *is completely* different from the later-day medieval (Islamic) Glazed ware.” (Italics ours).

It may be mentioned that the word “Islamic” within brackets is in the original. In other words, archaeologists of standing regard the presence of medieval glazed ware as evidence of Muslim presence; and this ware has nothing in common with the Kushana-period glazed ware. This passages disposes of the objection raised by Sri Pandey (quoted by Justice Agarwal in **Para 3976)** that the medieval glazed ware was the same as Kushana ware and so was used in Ancient India.

3.44. The “medieval (Islamic)” glazed ware is all-pervasive at the Babri Masjid site till much below the level of “Floor No.4”, which floor is ascribed in the Report to the imaginary “huge” structure of a

temple allegedly built in the 11^{th}-12^{th} centuries. The 'Summary of Results' in the ASI's Report tells us that the glazed ware sherds only "make their appearance" "in the last phase of the period VII" (p.270). Here we directly encounter the play with the names of periods. On page 270, Period VII is called "Medieval Sultanate", dated to 12th-16th century A.D. But on p.40 "Medieval-Sultanate" is the name used for period VI, dated to 10^{th} and 11^{th} centuries. As we have noted, the Summary of Results claims (on page 270) that the glazed ware appears only in "the last phase of Period VII". In Chapter V (Pottery), however, no mention is made of this "last phase" of Period VII; it is just stated that "the pottery of Medieval-Sultanate, Mughal and Late-and-Post Mughal period (Periods VII to IX)... indicated that there is not much difference in pottery wares and shapes" and that "the distinctive pottery of the periods [including Period VII] is glazed ware" (p.108). The placing of the appearance of Glazed Ware in the "last phase" only of Period VII appears to be a last-minute invention in the Report (contrary to the findings in the main text) to keep its thesis of alleged "massive" temple, allegedly built in period VII, clear of the "Muslim" Glazed-Ware, because otherwise it would militate against a temple being built in that period. All this gross manipulation has been

possible because not a single item of glazed pottery is attributed to its trenches and stratum in the select list of 21 items of glazed ware (out of hundreds of items actually obtained) on pages 109-111. Seeing the importance of glazed ware as a factor for elementary dating (pre- or post-Muslim habitation at the site), and in view also of the High Court's orders about the need for proper recording of glazed ware, a tabulation of all recorded glazed-ware sherds according to trench and stratum was essential. That this has been entirely disregarded shows that, owing to the glazed-ware evidence being totally incompatible with any temple construction activity in periods VI and VII, the ASI has resorted to the most unprofessional act of ignoring and manipulating evidence.

3.45. Going by the Pottery Section of the Report (p.108), not by its "Summary", the presence of Glazed Ware throughout Period VII (Medieval, 12^{th}-16^{th} centuries) rules out what is asserted on page 41, that a "column-based structure" - the alleged 50-pillar temple – was built in this period. How could Muslim have been using glazed ware inside a temple? Incidentally, the claim of a Delhi University archaeologist (Dr Nainjot Lahiri) defending the ASI Report, that glazed ware was found at Multan and Tulamba (near Multan) before

the 13th century, is hardly germane to the issue, since these towns were under Arab rule with Muslim settlements since 714 AD onwards, and so the use of glazed ware there is to be expected. The whole point is that glazed ware is an indicator of Muslim habitation, and is not found in medieval Hindu temples.

3.46. Sri Pandey's claim **(Para 3976)**, that pottery could be used by anyone and so medieval glazed pottery has no importance is like saying that since all men are equal there could not have been any untouchability in India at any time! We have surely to proceed with what the techniques and customs have been, and not what we think should have happened.

3.47. The story of **Glazed Tiles** is very similar. These too are an index of Muslim habitation. The two glazed tiles are found in layers of Period VI means that the layers are wrongly assigned and must be dated to Period VII (Sultanate period). There could be no remains of any alleged "huge temple" in these layers, then.

3.48. When the ASI submitted its Day-to-Day and Antiquities Registers for inspection it turned out that the ASI had concealed the fact in its Report that the layer in certain trenches it had been attributing to pre-Sultanate Period V cannot simply belong to it,

because glazed tiles have been found in it; and the layers assigned to Period VI could not have belonged to a temple, as alleged, because both glazed ware and glazed tiles have been found in it. In this respect attention may be invited to the Tables submitted as Annexure I to the Additional Objection of the Sunni Waqf Board, dated 3-2-04.

(Much of the above argument and information was presented before the Bench, *vide* **Para 537**: R.C. Thakran, sub-pras 6-9).

Lime Mortar and Surkhi

3.49. Since lime mortar and *surkhi* are profoundly involved in (a) the dating of the levels they are found in, and (b) resolving the issue whether they could have been used in the construction of a temple structure at all, it is essential, first of all, to be clear about what these are and what exactly is meant by their use. It is acknowledged by the ASI's Report, as noted by Justice Agarwal himself **(Para 3895)** that lime mortar was used to fix calcrete stones in the so-called "pillar bases".

3.50. If one looks up the entry on Mortars and Plasters in A. Ghosh (ed.), *The Encyclopaedia of Indian Archaeology*, New Delhi, 1989, p.295, we read: "Plaster is the material used for coating walls, etc., while mortar is the binding material between brick or stone." It is

nobody's case that lime plaster of some kind was not occasionally employed in ancient India. Indeed, according to P.K. Gode, *Studies in Cultural History*, Vol.I, p.158, lime (*churna*) in pan (*tambula*) was in use by about 500 AD, and the use of lime plaster (occasional) in certain places is described in the entry on Mortars and Plasters in the *Encyclopaedia of Indian Archaeology* above cited. In his collecting sundry references to use of lime plaster in **Para 3991, sub paras VIII et seq.**, the VHP advocate, Sri M.M. Pandey simply tilts at windmills, since the issue is not about the find of lime plaster but lime mortar in the remains of what is sought to be put off as a Hindu temple.

3.51. Now here too the matter is narrowed to certain limits of time. Lime mortar is found in Mohenjodaro and Harappa the great cities of the Indus Civilization (see *Encyclopaedia of Indian Archaeology,* op.cit.). It was found in Besnagar (now in M.P.) in a structure datable to the second century BC, but the "cement" was here weakened by the low amount of lime (D.R. Bhandarkar in: Archaeological Survey of India, *Annual Report*, 1913-14, pp.205-06). J.D. Beglar in A. Cunningham, *Archaeological Survey Reports,* vol.VIII, p.120, claimed to find lime mortar in the "original building" of the Buddha Gaya temple, dated to first century BC/ AD, but from

his description of it on p.118, it appears to have been "lime-plaster". Lime mortar was also found in Kausambi in structures dated to early historical (i.e. pre-Kushana times). But thereafter it simply disappears. Thus Sri M.M. Pandey, is grossly inaccurate when he says that "surkhi choona were in use in India *continuously* much before the advent of Muslims" (**Para 3991 – subpara** XVIII). It is not present in the first true Brahmanical temple of Northern India, Bhitargaon in Kanpur District, dated to *c*.500 AD the bricks being "throughout … laid in mud mortar" (A. Cunningham in *Archaeological Survey Report*, Vol.XI, pp.40-41). No lime mortar nor *surkhi* has been discovered at the two Gahadavala sites excavated by ASI, namely, Sravasti and Sarnath, to judge from the reports of their excavations published in the *Indian Archaeology — a Review;* nor have they been noticed by Dr Mani himself in the 'Rajput' levels of his Lalkot excavations at Delhi.

3.52. *Surkhi* is still more elusive in pre-Sultanate ancient India. It is not at all mentioned among mortars or even plasters by the *Encyclopaedia of Indian Archaeology*, Vol.I, p.295, the volume dealing only with Ancient India. This alone testifies to the rareness, if not absence, of the use of this material in ancient India. We should here take care to understand what the term signifies. According to the

famous Glossary of Yule and Burnell, *Hobson-Jobson*, revised by W. Crooke, London, 1902, p.854, it means “pounded brick used to mix with lime to form a hydraulic mortar.” It quotes a description of *c.*1770, in which it is spoken of as “fine pulverized stones, which they call *surkee;* these are mixed up with lime-water, and an inferior kind of molasses, [and] in a short time grow as hard, or as smooth, as if the whole was one large stone.” No *surkhi* floor or bonding mortar has yet been found in any pre-1200 AD site in India, whether in a temple or any other building. One rare exception is the presence of *surkhi* as plaster in the lower levels of the Buddhist temple at Buddha Gaya, by Beglar’s account just mentioned; and between it and the alleged temple at Ayodhya there is a gap of over a thousand years. Nor has the ASI in its Report or the VHP advocates been able to produce a single credible example from any Gahadavala or contemporary temple or structural remains.

3.53. The straight answer must then be that all the levels, especially Floors 1-4, which all bear traces of lime mortar and/ or *surkhi* must belong to the period after A.D. 1200 and cannot be parts of a temple. Yet Justice Agarwal rules otherwise in **Para 3986** —

> "whether lime molter (*sic!)* or lime plaster from a particular period or not, whether glazed ware were Islamic or available in Hindustan earlier are all subsidiary questions when this much at least came to be admitted by the experts of the objectionist (*sic!*) parties, i.e. the plaintiffs (Suit-4) that there existed a structure, walls, etc., used as foundation walls in construction of the building in dispute and underneath at least four floors at different levels are found with lots of other structures."

Let us here overlook the statement that "lots of other structures" were found, but concentrate on the main argument. The Justice is in effect arguing that it just does not matter that the floors underneath the Babri Masjid contained all the standard accompaniments of Islamic (not temple) construction and articles of customary use; the assumption is that anything found beneath the Babri Masjid *ipso facto*, by faith must be 'un-Islamic' and belong to a temple, irrespective of whether it bears Islamic features (*mihrab* and *taqs*) or is material exclusively of Islamic manufacture and use.

3.53A. There are two more matters to which attention should be drawn:-

(a) Underneath a "brick pavement" dated to Period VII, two Mughal coins (Reg. No.69 and 1061, one of which is of Akbar and the

other of Shah Alam II, 1759-1806) have been found. (ASI's Report, pp.210-17). Obviously, the ASI's dating of the pavement to the Sultanate period (c.1200-1526) is erroneous, and the floor belongs to recent times (late 18th century or later). So much for ASI's expert stratification!

(b) The presence of terracotta human and animal figures is no index of Hindu or Muslim occupations. In Period II at Lalkot, Delhi, along with Sultanate coins were found 268 terracotta human and animal figurines were found, the horse being "represented widely," (B.R. Mani's report on 1991-92 excavations: *Indian Archaeology, 1992-93, A Review*, ASI, New Delhi, pp.12-13). Muslim children were apparently as drawn to terracotta figurines (human as well as animal) as children everywhere in the world.

Evidence for Temple?

3.54. Apparently responding to the objections raised by critics of the ASI's Report, Justice Agarwal in **Paragraph 3986** states as follows:-

> "Normally it does not happen but we are surprised to see in the zeal of helping their clients or the parties in whose favour they were appearing, these witnesses went ahead

> than (sic!) what was not even the case of the party concerned and wrote totally a new story. Evidence in support of a fact which has never been pleaded and was not the case of the party concerned is impermissible in law. Suffice it to mention at this stage that even this stand of these experts makes it clear that the disputed structure stood over a piece of land which had a structure earlier and that was of religious nature."

One may well feel, however, that it would be poor experts who would be guided in their statements by what suitors, as lay persons, have said or expect them to say. If the Justice were to look at *A Historians' Report to the Nation* on the Ramjanmabhumi-Babri Masjid Dispute by Professors R.S. Sharma, M. Athar Ali, D.N. Jha and Suraj Bhan, all eminent historians, published in 1991 (twelve years before the ASI excavated the site), there is no statement to the effect that the Babri Masjid was built on vacant or virgin land. How could this be known? The historians gave their views as follows (p.23):-

> "There are no grounds for supposing that a Rama temple or any temple, existed at the site where Baburi Masjid was built in 1528-29. This conclusion rests on an examination of the archaeological evidence as well as the contemporary inscriptions on the mosque."

Thus no “new story” was being told now, after the ASI’s 2003 excavations, by any of the academic witnesses. Their conclusion still remained that no temple was demolished in order to build the Babri Masjid, and this was the essence of the issue in the law-suit. Moreover, if any conclusion which is derived strictly form historical or archaeological evidence is held “impermissible in law”, this does not mean that it is thereby wrong. It is the law which should yield!

3.55. What is of interest is that the corresponding question is not asked of especially the Suit No.5 plaintiffs and the “Hindu” parties generally: ‘You said there was a Ramjanmabhumi temple underneath the Babri Masjid. What is the evidence that there was a temple of Lord Rama here, and consecrated to his Ramjanmabhumi? We will just stick to this point, for anything else not according with your precise claim, will be “impermissible in law”. That the structural remains beneath the Babri Masjid are “religious” as asserted in **Para 3986** is not sufficient in itself, because such a religious structure could theoretically be also Islamic, Jain, Buddhist or Shaivite and so not be a Ramajanmabhumi temple at all.’

Had this line of questioning been adopted, would not the claim for Ramjanmabhumi Temple have been found to be quite "impermissible in law"?

3.56. Let us, however, return to the alleged "religious" structure below the Babri Masjid. It has already been shown that by the archaeological finds it must be an eidgah or qanati mosque (with much open land), constructed during the three centuries of the Sultanate (1206-1526) — given its western wall, *mihrab* and *taqs*, glazed ware, lime mortar and *surkhi*. If we are looking for a Rama or Vaishnavite temple what would we have been expecting?

3.57. We would first be expecting images or idols and sculptured scenes as are seen in the façades and interior of the temples of Khajuraho, Bhubaneshwar and Konarak of the same period. If we begin by the presumption (as the VHP plaintiffs do) that the temple was demolished by Muslims to build the mosque, we would also expect as a necessary corollary, such signs of vandalism, as mutilated images or mutilated sculptured figures. They should have been found in levels or fills beneath the Masjid floor or in the debris of the Masjid, because one would expect all kinds of stones images or stones with sculptured divinities, to have been employed in the mosque with or

without mutilation. *But not a single image or sculptured divinity, mutilated or otherwise, has been found even after such a comprehensive excavation where doubtless these were the things everyone in the ASI team was looking for*.

3.58. Surely, this total lack of what would be expected out of the remains of a massive Hindu or Vaishnavite temple, should summarily rule out the case for a temple having existed beneath the Mosque.

As for the alleged pillars, deduced from the fictitious pillar bases, one needs to record the opinion of an eminent archaeologist, Professor M.S. Mate, formerly of the Deccan College, Pune, that "even if it is granted purely for the sake of argument that the pillar bases are a reliable affair", the plan of the structure that would result, as per ASI Report's Fig.23A-B, cannot be that of "the plan of a twelfth-century temple." "No *shilpi*", he adds, "would venture to adopt such a plan for a temple as it would be totally unsuitable for temple rituals" (*Man and Environment*, XXXIV(1), 2009, p.119; see also plans figured on p.118). Professor Mate then goes on to comment on the unreality of the alleged "pillar bases without the support of a solid plinth", thus endorsing the objections advanced above in our paragraphs 3.16 to 3.24.

3.59. Let us, then, consider what the ASI offers as the main indicators of a temple at the site, besides those controversial pillar-bases we have already discussed: It refers to “yield of stone and decorated bricks, as well as mutilated sculpture of divine couple and carved architectural members including foliage patterns, *amalaka*, *kapotapali* doorjamb with semi-circular pilaster, broken octagonal shaft of black schist pillar, circular shrine having *parnala* (water chute) in the north”. Since Justice Agarwal’s list in **Para 3979** is derived from the ASI’s list, so let us primarily consider the list furnished by the ASI in support of the temple-beneath–the–mosque theory.

3.60. We begin with the curious phrase “stone and decorated bricks”. Perhaps, “stone” is a misprint for “stones” for there can be no stone bricks. But mere stones as stones have no significance either for period or for type of structure. As for ‘decorated bricks’, the sentence in Chapter IV is most revealing: “A band of decorative bricks was perhaps provided in the first phase of construction or in the preceding wall (wall 17) of which scattered decorated bricks with floral pattern were found re-used in the wall 16 “ (p.68). All this is just fanciful conjecture: no decorated bricks at all are mentioned when the supposed remaining courses of Wall 17, four courses in one and six in

another area, are described (on the same page 68). No bands of decorated bricks but only some scattered re-used bricks of this kind were found in Wall 16. Such re-use shows that for builders of Wall 16 these bricks had no significance except as use of constructional material (and the decorations would in any case be covered by lime plaster). They could have been brought from anywhere nearby and not taken from Wall 17 or any pre-Mosque remains on the site.

3.61. In Chapter VI, the other alleged temple-associated items are listed thus: “the fragment of broken jamb with semi-circular pilaster (pl.85), fragment of an octagonal shaft of Pillar (pl.84), a square slab with *srivatsa* motif, fragment of lotus motif (Pls.89-90) [which] emphatically (!) speak about their association with the temple architecture”. In the same breath the Report also notes “that there are a few architectural members (Pls.92-94) which can clearly be associated with the Islamic architecture” (p.122). The two sets of finds are assigned their different dates (10^{th}-12^{th} centuries and sixteenth century or later) but such dates are assigned *not* by the positions of the artefacts *in situ* in archaeological layers, but purely on perceived stylistic grounds. The two tables listing the archaeological members found in the excavations show that none of the finds actually came

from layers bearing remains of the so-called structure beneath the Babri Masjid, but rather from surface, or upper layers or the Masjid debris, or dumps or pits (see tables of the Report on pp.122-133). How, then, even if the stylistic 'temple' associations of a few of them are acknowledged, can it be argued that they belonged to the structure beneath the mosque, the one containing *mihrab* and *taqs,* whose 'religious character' is under discussion? They could have been brought for use in the Babri Masjid from remains of temples and other buildings at nearby sites, just as were the 'Islamic' architectural fragments brought from ruins of older mosques in what was in the sixteenth century the headquarters of a large province, with a mixed Hindu-Muslim population.

3.62. As for "the divine couple" which occupies a primary place in the ASI's list of supposed temple relics, the following points are noteworthy: it comes from the Mosque debris (see Sl. No.148 (Reg. No.1184) in table on p.130 of the ASI's Report) and is thus archaeologically undatable. The description 'divine couple' is an invention of ASI, because here we have only a partly sculpted rough stone, where only "the waist" of one figure and the "thigh and foot" of another are visible (See Plate 235 in ASI's volume of illustrations).

How from this bare fragment the ASI ascribed divinity to the postulated couple and deduced the *alingana mudra* as the posture is evidence not of any expertise but simple lack of integrity and professionalism. Yet, even if we throw all our scruples to the wind and, for a moment, and, for a moment, at least, go along with the ASI officials in their imaginings of an amorous "divine couple", where would this take us in the world of Brahmanical iconography? Surely, to Uma and Maheshvara (Shiva) who are thus sculpted together as Uma-Maheshwara. See Sheo Bahadur Singh, *Brahmanical Icons in Northern India (A Study of Images of Five Principal Deities from Earliest Times to circa 1200 AD)*, New Delhi, 1977, pp.28-31 and Figs.11, 17-19. We would thus after such a long shot get only a Shaivite connection, showing at best that here we have a rough hewn stone brought for re-use in the Masjid construction, from the remains of some Shiva shrine.

3.63. The black schist stone pillar here presented as evidence for a temple at the site was recovered from the debris above floor 1, i.e. the admitted last floor of the Babri Masjid (ASI's Report, page 140), Sl. No.4, Reg. AYD/1, No.4). It is merely a fragment of one of the 14 such non-load bearing pillars installed in the Babri Masjid with no

connection to the imagined pillared edifice underneath the Masjid. (See above under discussion on pillar bases).

3.64. The fact that the various articles cited in support of the existence of an earlier temple at the site have their association with different sects rules out their having come from a single temple. An octagonal block with a floral motif has been compared by the ASI with a stone block at Dharmachakrajina Vihara, a twelfth-century Buddhist establishment at Sarnath (Report, p.56). If correct, this would be a piece taken from a Buddhist *vihara* not a Brahmanical temple. The 'divine couple', if it is such, would be of Shaivite affiliation; and *amalaka* has its associations with Brahma. The "circular shrine" has been judged to be a Shaivite shrine by Justice Agarwal — **Para 2938**), and if so it still does not bring us anywhere near to a Rama temple. None of these elements could ever be part of a single "Hindu" temple — for such a composite place of worship was unknown in Northern India in ancient and medieval times. There could have been no non-denominational non-Islamic religious structure, which Justice Agarwal postulates but which no "Hindu" party to the suit has ever suggested nor is sustainable by any historical example. To conclude: The sundry portable elements found in the Masjid debris, surface or late layers

must have come from different sites for re-use as architectural items in Masjid construction, and thus cannot be invoked in support of a temple underneath the Babri Masjid.

Evidence for Temple-Destruction?

3.65. It may by some be regarded as a lamentable failure of the ASI's Report that it "does not answer the question framed by the Court, inasmuch as, neither it clearly says whether there was any demolition of the earlier structure, if [it] existed and whether that structure was a temple or not." (**Para 3988**). On this Justice Agarwal says as follows in **Para 3990:**

> "ASI has, in our view rightly refrain (*sic*!) from recording a categorical finding whether there was any demolition or not for the reason when a building is constructed over another and that too hundreds of years back, it may sometimes [be] difficult to ascertain as [*sic*] in what circumstances building was raised and whether the earlier building collapsed on its own or due to natural forces or for the reason attributable (*sic*!) to some persons interested for its damage."

Thereupon Justice Agarwal, after a long reproduction of the VHP advocate Sri M.M. Pandey's arguments, says (**Paragraph 3994**) that though "for our purposes it was sufficient that the disputed structure

[Babri Masjid] had been raised on an erstwhile building of a religious nature which was non-Islamic”, he would still proceed to discuss the “blatant lie” (his words) that Muslim rulers never destroyed any temples. Here it seems to be overlooked that the real issue is not whether some Hindu temples were destroyed by Muslim rulers, but whether Babur or his officials had destroyed any temple at the site of Babri Masjid. For this to be decided not the conduct of other Muslims, but only the conduct of Babur or his immediate successors in India, Humayun and Akbar was of relevance to the matter, as indeed, Sri Jilani, Advocate, correctly pointed out (**Para 3995**). For that matter, the fact that a Panchala ruler in the 11^{th}-12^{th} century, ruling from Badaun (UP), honoured a Brahman priest for having destroyed a Buddha idol in the south (*Epigraphia Indica*, I, pp.61-66, esp. p.63) does not mean that every Hindu ruler who built a Hindu temple or patronized Brahman priests, could be suspected of having connived at the destruction of a Buddhist image. Justice Agarwal seems to hold, however, that the case of Muslims in such circumstances is one apart from all others, for—

> “whatever we had to do suffice it to conclude that the incidence of temple demolition are (*sic!*) not only confined to past but is going in (*sic!*) continuously. The

> religion which is supposed to connect all individuals with brotherly feeling has become a tool of hearted (*sic!*) and enmity." (**Para 4048**).

3.66. With such a view taken of Islam, it is not surprising that Justice Agarwal rules out not only the likelihood of there being an earlier eidgah or qanati masjid at the site, but takes the fact of temple demolition prior to the Babri Masjid as proven, despite the ASI's failure to prove this by means of its archaeological excavation, as the Justice has himself acknowledged (**Para 3990**): He now reposes his entire faith in what he believes to be the current belief of the Hindus to settle the whole matter:

> "The claim of Hindus that the disputed structure was constructed after demolishing a Hindu structure is pre-litem not post-litem, hence credible, reliable and trustworthy" (**Para 4056).**

If this was the core of the matter the High Court need not have gone into the evidence of history and archaeology, as studied by the methods of these disciplines, but should have decided in favour of what one set of suitors believed, irrespective of what the votaries of a religion that has become the tool of "hatred and enmity" might assert, *pre-litem* or *post-litem.*

PAPER IV

THE CONDUCT OF THE ARCHAEOLOGICAL SURVEY OF INDIA BEFORE, DURING AND AFTER EXCAVATIONS

4.1. Justice Agarwal has expressed his high opinion of the Archaeological Survey's conduct and work at Ayodhya (**Paras 3879 and 3989**). We do not unnecessarily wish to go into the history of the ASI, but cannot but mention some of its recent misdemeanours at Mughal monuments, like its digging up the Anup Talau within UNESCO's heritage site, Fatehpur Sikri, or the vandalism committed by it at the Red Fort, Delhi, destroying price-less marble screens and fountains (caught on camera by Rajeev Sethi), both condemned by the Indian History Congress in formal resolutions, at its Kolkata session, 2000-01 (*Proceedings*, p.viii) and Mysore session 2003 (*Proceedings*, p.1472). As for the ASI's expertise, it is of interest to note that since mid-1990's it has been headed continuously as Director General by a non-expert civil servant shifted time to time at the whim of the Central Government, until this year (2010), when finally a professional archaeologist has been appointed to head it. When the excavations were ordered by the Allahabad High Court to be undertaken by the ASI, the latter was entirely controlled by the BJP-led Government at

the Centre under a Minister of Culture (**Para 3789**), belonging to the VHP, the author of the demolition of the Babri Masjid in 1992. The BJP itself had made the slogan of Ram temple at the Babri Masjid site one of its main election slogans. On the eve of the excavations, the BJP Government changed the Director-General to install yet another non-professional civil servant, apparently in order to have a still more pliant instrument to control the ASI.

4.2. From the very beginning the ASI made clear its loyalties to its political masters' beliefs and commitments. The High Court in its order dated 5.3.2003 **(Para 216)** asked the ASI to intimate its programme to "the Officer-on-Special Duty, Ram Janma Bhumi-Babri Masjid." The ASI, however, insisted on addressing the designated officer as "OSD, Ram Janma Bhoomi" in its letters dated 8.3.2003 and 10.3.2003, thus significantly omitting the name Babri Masjid (**Para 223;** also statements in ASI's own Report, pp.5-6). The new Director-General, ASI, while constituting the team of officers for the excavation appointed 14 members, placed under Dr B.R. Mani as Team Leader. Only one Muslim, an Asst. Archaeologist, was included in the team, as may be seen from the list in **Para 217.**

These arrangements were in total contrast to what the High Court itself had visualized in its orders of 1.8.2002 –

> "If it is ultimately decided to excavate the disputed land, in that event the excavation will be done by the Archaeological Survey of India under the supervision of five eminent archaeologists (Excavators), even though retired, including two Muslims…"

An eminent archaeologist surely means a person of the stature of DG or Additional DG of ASI, working or retired, or archaeologist of equal stature from outside the ASI. Not one of the 14 members of the team, including the Team Leader, who was not even a Director at ASI, fitted this requirement. The team was so formed as to be led and guided by a pliant subordinate not an eminent archaeologist. To make the team free from the dominance of one community, the Court had desired that at least two out of five archaeologists supervising the excavations should be Muslims. The ASI formed a team of officials from which, until the Court directed otherwise, Muslims were almost wholly excluded.

4.4. The "one-community" policy was also enforced by Dr Mani and his team on the labour force. When over fifty labourers were engaged for the work which began on 12.3.2003, not a single Muslim was found fit for employment. It seemed as if the ASI had decided that since it was 'Ramjanmabhumi' ground, no Muslim could be allowed to enter it. A complaint about this was made to Dr Mani, 'Team Leader',

ASI, on 18.3.2003. Mani's reply that he had left the recruitment to District Administration **(Para 227)** is hardly credible and amounts to no more than the proverbial "passing of the buck" by those who are caught in any questionable act. On 26.3.2003 the High Court, presumably noticing Dr Mani's attitude in the matter, expressly ordered that "labourers belonging to the Muslim community be engaged", and also that at least two more Muslim archaeologists be added to the ASI team **(Para 228).** This had little substantive effect. As of 4.4.2003, eight days after the High Court's orders, there were only 9 Muslims engaged out of a total of 89 labourers **(Para 229).**

4.5. The communally biased attitude on the part of the ASI's Director General and the local team-leader was thus clearly manifest in the formation of the 14-member team and the recruitment of labourers, in both of which scant regard was paid to the letter and spirit of the High Court's earlier orders.

4.6. There was thus every reason for the suspicion that the ASI team's conduct was not likely to be impartial and above board. This began to be noticed in the way any materials likely to impede a temple-beneath-the-mosque theory were treated after the digging began.

4.7. Here we wish to refer to Mr Justice Agarwal's assertion that the complaint about it was made too late (**Para 227**) and was therefore motivated. That fact, however, is that in the beginning the crucial levels were not at all involved. As late as 23.3.2003, Dr B.R. Mani reported to the High Court, through DG, ASI, that excavation began on 12.3.2003, and, then, there were three non-working days (14, 17 and 18 March), so that before 20.3.2003, when the first complaint was made, excavation work had taken place only on five days. Moreover, until then no digging had proceeded below the floor of the Babri Masjid **(Para 225,** sub-para III.1). So the crucial layers were just now being laid bare.

4.8. In view of the above, it is not at all fair to charge the complainants with delay in reporting the ASI's treatment of artefacts. This was by no means what the Bench thought at that time, and by their orders dated 26.3.2003 **(Para 228)** endeavoured to ensure that the ASI should take the minimum steps required for the proper recovery, registration and preservation of artefacts, and also measures to improve access to the counsels' nominees to observe the excavation work. If the complaint had been as baseless as Justice Agarwal suspects, then why should the Bench have issued such orders?

4.9. On 7.7.2003, a complaint was filed to the effect that the ASI was not carrying out the Court's orders (**Para 229**), and again the Bench 10.4.2003 passed detailed orders on the various lapses. The Bench was so much concerned with the ASI team's casual approach to its orders hitherto that it ended the present orders with the injunction: "The observers are directed to ensure that this Court's instructions are carried out in letter and spirit" **(Para 230).**

4.10. Finally, the Bench was so exasperated with Dr B.R. Mani's way of by-passing its orders, that on 22.5.2003 it passed the following extraordinary order:

> "It is not necessary to comment much upon the work of the Team Leader of ASI [Dr B.R. Mani] for the last more than two months. We think it proper that another Team Leader should be appointed by the Director General, Archaeological Survey of India. However, Dr B.R. Mani shall also continue to work in the team". (**Para 235**).

Thus the Bench at the time found nothing to commend in the way Dr Mani had carried out the work on behalf of the ASI, and desired that he be immediately replaced. Not desiring to show that he was being disgraced, his membership of the ASI team was, however, not terminated.

4.11. Justice Agarwal has not commented on this series of episodes, and its implications. On the other hand, he takes to task the critics of ASI's conduct.

4.12. Justice Agarwal takes up some of the complaints made to the Observers between 14.4.2003 and 26.7.2003. The response of Dr Mani to the complaint of 14.4.2003 was an admission that neither animal bones were being carefully recorded nor were pieces of glazed ware being sealed, but he promised that now this would be done (**Para 3677**). A similar response to the complaint of 15.4.2003 elicited a promise that the required videography and photography would be undertaken and a proper record would be kept (**Para 3678**).

4.13. It was thus clear that the complaints were well taken. Yet Justice Agarwal takes exception to the complaint dated 16.5.2003 (**Para 3681**) containing "the complaints regarding the recording of artefacts, brick-bat remains, etc., where the ASI instead of descriptions labelled them to serve its own objects." The complaint, he says, was "mischievous and worthless." Why? Because "The ASI experts identify such item/ artefacts which ordinary people cannot. If only clear items were to be no expert would have (*sic!*) needed." **(Para 3681)**

4.14. Here we are expected to look at “ASI experts” as “ordinary people” would. As a matter of fact it is not quite as easy in cases of broken artefacts or fragmented ‘architectural pieces’ for any ‘expert’ to imagine them what they were when they were complete pieces; and archaeologist have held different views about them. When Dr BB Lal, former Director-General, ASI, dug at what he called the Janma Bhumi mound, in 1976-77, he was not able to identify any “pillar-base” there, as may be seen from his report published in *Indian Archaeology 1976-77 — A Review* (ASI, Delhi, 1980), pp.52-53. Very properly he did not attempt any identification of the material evidence while undertaking field work and recording the finds. Only some fourteen years later did he suggest such identification in the RSS journal *Manthan*, October 1999; and his interpretation of the structural pieces was still open to doubt (see D. Mandal, *Ayodhya: Archaeology after Demolition*, Orient Longman, New Delhi, 1993, pp.26-40). In the excavations at Babri Masjid, however, the “ASI experts” immediately began identifying and marking the pillar-less pillar-bases. A similar act on their part was to give suggestive names like ‘divine couple’, ‘circular shrine’, etc. where the terms ‘divine’ and ‘shrine’ were both subjective and motivated descriptions, not arising from any supposed professional expertise at all. At the same time they neglected other very significant

objects in total violation of professional requirements. Peter L. Drewett in his manual of field archaeology notes: "Having identified the bones to species and to part of the skeleton, the bone assemblage should be quantified." (*Field Archaeology: An Introduction*, London, 1999, p.156). The "ASI experts", however, refused to record animal bones properly and failed even to tabulate them by species, trenches and layers in quantified form, as required by the standard manual of field archaeology we have just quoted. It is charitable to assume that the conduct of ASI "experts" in this matter arose not from gross ignorance (after all, they were "experts"), but from the fear that the presence of animal bones (cattle and caprine) could undermine their entire temple theory. One wonders, therefore, to whose acts the adjective "mischievous" should be more aptly applied.

4.15. With reference to the complaint on 21.5.2003, made about a pillar base in G-2 **(Para 3683)**, it is noteworthy that Sri A.R. Siddiqui does not at all deny the allegation that the digging was so carried out that a squarish base was being created. He just said the digging was not completed and so the objection was "premature". That this was a wrong piece of information is shown by the fact that on 18.5.2003, the day register for this trench distinctly records: "A pillar base on plan." **(Para 3685)**; and another report of the same day

(18.5.2003) gave a more a detailed description of "a structure of brickbats and rectangular in shape", which was encountered "during digging"; and which forthwith was declared a "pillar-base". **(Para 3688)**. So Sri A.R. Siddiqui's reply (vide **Para 3683)** was, to the say the least, evasive and misleading: A squarish or rectangular pillar base was in fact already recorded, and he had to explain whether it really existed or had been created by removing surrounding brickbats — and this he entirely avoided doing.

4.16. On 7.6.2003, a detailed complaint was submitted pointing out the severe breaches of prescribed archaeological methods and procedures so far pursued by the ASI: it is reproduced in **Para 3699.** Though the High Court had ordered Dr Mani's removal as head of the ASI team on 22.5.2003, we find him still in that position on 8.6.2003 — another example of how casually ASI treated the High Court's orders. Dr Mani thereupon delivered the following tirade against the complainants:-

> "There seems to be a calculated effort to defame the ASI and demoralize it's (*sic!*) team member (*sic!*) by making statements through media and also through applications like the present one submitted by one of the parties to the case. ASI being the premier institution of the country has

> always been famous for accuracy and scientific approach in exploration and excavation work." **(Para 3700)**

He goes on to claim that his team's "recording of artifacts is perfect" — a claim ill-suited to the mouth of anyone not divine. Indeed, Dr Mani's tone is one which would have smacked of supreme arrogance and self-congratulation even if the words had come from the head of the ASI, rather than a mere Superintending Archaeologist; and, of course, one can retort that repute acquired in times long past cannot become a cover for lapses so clearly detected by the complainants.

4.17. Since most of the issues relating to the acts of omission and commission on the part of the ASI have already been discussed in Paper III, we are here mainly concerned with how Justice Agarwal deals with the complaints.

4.18. First of all, he takes no cognizance of the utter dissatisfaction of the then Bench with the manner in which Dr Mani and his team had carried out the excavations until 22.5.2003. He also overlooks how, despite the Court's orders for his replacement, Dr Mani continued to be in-charge on 8.6.2003. In other words, the bulk of the excavations were conducted under a person who had lost the confidence of the High Court itself.

4.19. Justice Agarwal, on the other hand, investigates who prepared the texts of the complaints, and then finding their authors to be two PWs, PW29 (Dr Jaya Menon) and PW 32 (Dr Supriya Verma), gives us the dates of their presence on the sites **(Paras 3704 and 3705**), as if they were not entitled to help in drafting complaints for other days. The comments made by Justice Agarwal in **Para 3711** may here be seen. Did the Court similarly look into how the ASI Team leader could cover in his report the excavations conducted during days he was not present at the site? In **Para 3712** an unfortunate slip in the complaint is held to be an astoundingly serious lapse though it perhaps arose merely due to a misreading of the figure 220 cm as 270 cm. Such a slip hardly means that "either they [Dr Menon and Dr Verma?] have deliberately tried to misguide the authorities (!) or the complaint [the whole of it?] lack (*sic*!) *bona fide*."

4.20. The Justice then takes up the oral evidence of the two archaeologists. PW 32 (Dr Verma) claimed that she was present when trenches G-2 and F-3 were being excavated **(Para 3714).** But, says the Justice, digging of F-3 only started on 30 May, while she was present only until 31 May. However, the very dates he gives mean that Dr Verma had been able to watch the digging of the trench for two full days.

4.21. In **Para 3717** from an objection of his **(Para 3715)**, easily answered, Justice Agarwal draws the following conclusion:-

> "From the texture and the over all (*sic*!) facts and circumstances, some of which we have already discussed it appears to us that as soon as underneath (*sic!*) structures started appearing, the complainants in consultation with their alleged (!) experts, engaged in preparing a kind of anticipatory ground to assail the ASI people, their proceedings. What was submitted on spot do (*sic*!) not show that it was a simultaneous preparation of something which was actually observed and found objectionable by the persons thereat."

4.22. On complaints of manipulation of materials excavated, Justice Agarwal has checked with the ASI's records and finds (eg. **Para 3725)** that these records do not confirm them, as if in their record the ASI "people" would care to show how they were playing with the finds!

4.23. In **Para 3729** Justice Agarwal brings in the GPR Survey Report. No significance could possibly attach to it once the ground was actually excavated, and there was no point in Dr Verma (PW 32) reading it and comparing it with the excavations. It is difficult to see what value can be assigned to the "anomalies" predicted in the report by the little known firm Tojo–Vikas International (Pvt.) Ltd., curiously

carrying the name of the Japanese war criminal Tojo (changed to 'Tozo' by Justice Agarwal — **Para 215**). Such 'anomalies', the worthy company's report had told us, "could be associated with ancient and contemporary structures such as pillars, foundation walls, slab-flooring extending over a large portion of the site." (Text reproduced in ASI's Report, p.5). No pillars were, however, found, except for one broken fragment in the Masjid debris; and the presence of bricks and brickbats was not at all predicted.

4.24. It would be a sad day if the intentions and motives of the archaeologists and historians who appeared for a party whose religious faith they did not share, are doubted for that reason. A preceding Bench had, indeed, appreciated their work (**Para 228**)**.** But now they have become "alleged experts" (**Para 3717**) and "virtually hired experts" (**Para 3879**), although no proof has been offered that they lacked qualifications, nor that they received any remuneration from the Muslim parties to the suit. Of Dr Menon and Dr Verma, it has been said **(Paras 3746 and 3774)**: "as admitted by these two witnesses they were partisan and interested." In fact, however, neither of them made any admission of this sort. Being "interested" means "having a private interest", especially "pecuniary stake" (see *Oxford Concise Dictionary*, s.v. "interest (n.)" and "interest (vt)"), and is there then a suggestion

that they had something remunerative to gain for themselves by their work as archaeologists at Ayodhya?

It may be that it is hard to understand the spirit which inspired archaeologists like Dr Menon and Dr Verma and the consequence of their work at Ayodhya. It may here be worth quoting from an article in the *Hindustan Times*, Delhi, 6 July 2003:

> "It is saddening that one should be obliged to speak in this manner of the work of the ASI that was once an institution in which the country could take justifiable pride. Today, one can only say that if it did not do worse at Ayodhya, part of the credit goes to the numerous archaeologists from many places in India who maintained a constant vigil at the excavations. They did so only out of a loyalty to their profession and to secular values. When one thinks of them, one cannot help feeling sentimental about a country which, amidst all its troubles, can bring forth such men and women."

Had Justice Agarwal looked at the ASI's entire conduct, it might have struck him how the ASI's behaviour from the very beginning of the excavations could engender legitimate suspicious (which, in the end, also proved so correct).

4.25. The DG, ASI's addressing the Bench as "Ramjanmabhumi" instead of "Ramjanmabhumi-Babri Masjid", the

correct designation, was not a slip but a declaration of the ASI's partisanship in the dispute. We have seen that the first team of officials it formed for the excavation was practically entirely Hindu in composition (13 out of 14). The labourers it first employed did not include a single Muslim. Should not it have been asked, if the ASI's intentions were of scientific excavations without any manipulation, then why came this deliberate exclusion of Muslims from the initial ASI team and the labour force. Even after the Court's orders, only a grudging and nominal recruitment of Muslim labourers took place. We have seen that the complaints made about slackness in recording glazed ware and animal bones, which could militate against the presence of a temple, were genuine and partly admitted by Dr Mani himself. The High Court had to pass stringent orders that its wishes must be implemented. Finally, its dissatisfaction with the ASI Team Leader's conduct of the excavations was reflected in the Court's order of 22.5.2003 directing that Dr Mani be replaced as Team Leader, though he "shall also continue to work in the team." The spirit of the order was defied by the ASI, in that, while it appointed Sri Hari Manjhi, Director (Antiquity), as team leader, it also brazenly ensured that "Dr B.R. Mani continued to direct the excavation" (ASI's Report, pp.7-8).

4.26. Dr Mani's hand can be seen as the dominant one in the Final Report. While Sri Manjhi's name appears as the co-author of the Report, the Introduction is by Dr Mani alone. He is a co-author in three major chapters (II, Cuttings; IV, Structure; V, Pottery) while Sri Manjhi the Team Leader, is a contributor to none of the Chapters in the Report! The author of the last chapter, 'Summary of Results' is left unnamed — a curious way of evading responsibility. In sum, the result is that the very person with whose conduct of the excavations the High Court was not satisfied, was yet given full rein to 'direct' the excavations and write the Report. Dr Mani, as we have seen, had made his commitments fairly clear by his initial actions in Ayodhya, and it is not surprising that the same commitment informs the final ASI Report.

4.27. Such are the plain facts, almost all of which are brought out by the documents reproduced, in whole or in part, in Justice Agarwal's own judgement. And yet in **Para 3989** Justice Agarwal holds that "all objections against ASI are, therefore, rejected."

4.28. A comprehensive clean chit is thus given in the Judgement to the ASI, despite the stream of motivated acts of impropriety and irregularity committed by the ASI officials that we have traced. The ASI officials arrived at Ayodhya with clear indications of commitment to one side of the dispute — shown by the very composition of their

staff and labour-force — and they stuck to the task of manipulating, selectively recording and perverting evidence as much as they could, increasingly constrained as they came to be by the vigilance exercised by archaeologists from the academic world. The ASI's Final Report could not but be a partisan document, as we have seen in Paper III, and its rejection must form the prelude to any correct perception of the past of the disputed site.